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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13521/2018 & CM APPL. 52715/2018**

**SOCIAL ACTION FOR
FOREST AND ENVIRONMENT**

.....Petitioner

Through: Mr. Vanshdeep Dalmia and Ms.
Anisha Jain, Advocates.

versus

UNION OF INDIA AND ANR.

.....Respondents

Through: Mr. Ripudaman Bhardwaj, CGSC with
Mr. Kushagra Kumar and Mr. Amit
Kumar, Advocates.
Mr. Saqib, Advocate for R-2/CPCB.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

04.12.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Articles 226/227 of the Constitution of India, 1950, seeks following prayers:-

“a) Issue an appropriate Writ in the nature of Certiorari quashing the Impugned directions dated 2.11.2018 issued by the Respondent No. 2 being violation of Article 21 of the Constitution of India, and *Ultra Virus* the provisions of the Water Act, 1974 and the Air Act, 1981; and

b) Issue an appropriate Writ in the nature of Certiorari quashing the Impugned directions dated 2.11.2018 being violative of the principle of Non-regression, sustainable development and precautionary principle; and further being an unreasonable, arbitrary and excessive exercise of power being violative of Article 14 of the Constitution of India;

c) Issue an appropriate Writ in the nature of mandamus directing the Respondent No. 2 to grant/refuse consent to establish and/or operate as



per the extant provisions of the Water and the Air Act.

d) Pass such other orders/ directions as deemed fit in the facts and circumstances of the case.”

3. By way of the present petition a communication dated 02.11.2018 issued by respondent no. 2 (Central Pollution Control Board) has been assailed whereby, it was directed that the Environmental Clearance (EC) issued by Central Pollution Control Board would also be deemed to be Consent to Establish (CTE) industries covered under said communication namely, Category ‘A’ and Category ‘B’.

4. During the pendency of the present proceedings, an additional affidavit dated 19.11.2025 has been filed on behalf of respondent No.1/UOI, wherein it has been stated as under: -

“4. Thereafter, the Central Government vide the Jan Vishwas (Amendment of Provisions) Act, 2023, on 11/08/2023 has inter-alia, amended sub-section (1) of Section 21 Air (Prevention and Control of Pollution) Act, 1974 in the following manner:

“(1) No person shall establish or operate any industrial plant in an air pollution control area unless the previous consent of the State Board has been obtained in pursuance of an application made by such person in accordance with the provisions of this section:

Provided that the Central Government may in consultation with the Central Pollution Control Board, by notification in the Official Gazette, exempt certain categories of industrial plants from the application of the provisions of this sub-section.”

A copy of the amendment has been annexed as ANNEXURE R/3.

5. That, the Central Government has also inter-aha, amended the proviso to subsection (1) of Section 25 of the Water (Prevention and Control of Pollution) Amendment Act, 2024 in the following manner:

"Provided that the Central Government may in consultation with the Central Board, by notification in the Official Gazette, exempt certain



categories of industrial plants from the provisions of this sub-section."
A copy of the amendment has been annexed as ANNEXURE R/4.

6. That, the answering respondent in view of the above referred amendments in the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974 has after following due process issued notifications vide GSR 703(E) and GSR 702(E) dated 12/11/2024 respectively on the regulations of the projects / activities requiring prior EC as per the Environmental Impact Assessment notification, 2006 (as amended from time to time), which is states that, in exercise of power conferred by the proviso to sub-section (1) of section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) and the proviso to sub-section (1) of section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974),the Central Government, in consultation with the Central Pollution Control Board, **exempts all industrial plants which have obtained prior environmental clearance as per the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1533(E), dated the 14th September, 2006 issued under the Environment (Protection) Act, 1986 (29 of 1986), in respect of previous consent to establish such plant, from the application of the provisions of the above referred sub-section.** Hence, all such plants which have prior EC would not be requiring to obtain Consent to Establish. A copy of the GSR 702(E) dated 12/11/2024 and GSR 703(E) dated 12/11/2024 has been annexed as ANNEXURE R/5 and ANNEXURE R/6 respectively.

7. It is humbly submitted that the answering respondent issued a Standard Operating Procedure (SOP) dated 14/11/2024 for implementing the notifications mentioned above. In the SOP, it has been, inter-alia, provided that, for the projects/activities requiring prior EC, the exemption provided from obtaining CTE is subject to obtaining necessary EC and the conditions of CT as may be applicable, will be integrated in the conditions of C itself. A copy of the SOP dated 14/11/2024 has been annexed as ANNEXURE R/7.

8. It is humbly submitted that answering respondent vide OM dated 14/01/2025 decided to further streamline the procedure in partial modification of the SoP dated 14/11/2024, with regard to the projects/activities requiring prior EC which are exempted from obtaining CTE as per the aforesaid Notifications GSR 702 and G.SR



703 dated 12th November 2024. Further, the answering respondent has also issued a clarification to the OM dated 14/01/2025 vide OM dated 08/10/2025. A copy of the OM dated 14/01/2025 and OM dated 08/10/2025 has been annexed as ANNEXURE R/8 and ANNEXURE R/9 respectively.”

5. In view of the aforesaid affidavit, learned counsel for the petitioner does not wish to press the present petition.
6. The present petition is disposed of as not pressed.
7. Pending application(s), also stand disposed of accordingly.

AMIT SHARMA, J

DECEMBER 04, 2025/sn