

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6398 OF 2024

WARIS CHEMICALS PVT. LTD.

...Appellant(s)

Vs.

UTTAR PRADESH POLLUTION CONTROL BOARD

...Respondent(s)

O R D E R

Heard the learned counsel appearing for the appellant and the learned counsel for the respondent.

2. Pursuant to the order dated 27th September, 2019 passed by the National Green Tribunal (for short, "the NGT"), New Delhi, the respondent-Uttar Pradesh Pollution Control Board (for short, "the PCB") undertook the exercise of making determination of the Environmental Compensation payable by the appellant and others. The compensation was to be computed for causing pollution of the ground water due to the storage of hazardous chromium waste in village Khan Chandpur, Rania, Kanpur Dehat. It was found that the waste was of the quantity of 62225 MT. An order was made on 19th November, 2019 signed by the Regional Officer after obtaining approval of the PCB of fixing the compensation. A statutory appeal was preferred by the appellant against the

said order before the NGT. In the impugned judgment, the NGT recorded disapproval to the manner in which Environmental compensation was determined by the PCB. Paragraphs 146 and 147 of the impugned judgment read thus:

"146. We also express our disapproval to the manner in which environmental compensation has been determined by RO UPPCB, Kanpur Dehat. On the one hand, it has applied the formula of $EX+Q \times ERF \times R$ but for determining value of Q., it has not considered the contribution of appellant as such but taking total quantity of dumped waste at questioned site as 62225 MT, it has divided the same by taking appellant's production capacity of 4 MT/day in proportionate to other unit's production capacity and on that basis, has arrived at the quantity of waste differently on all the three occasions.

147. Learned Counsel for UPPCB did not dispute that the total quantity of waste collected at the questioned site reflected the period of 1976 and onwards but admittedly, appellant commenced its production only in 1995, therefore, for the waste dumped at the questioned site prior to 1995, no liability could have been fastened upon the appellant. In a mechanical manner, entire quantity of 62225 MT has been divided proportionately between six units initially and thereafter, eleven units and then eight units respectively. We express our strongest disapproval to the manner in which RO UPPCB has acted in this case."

3. After recording the said findings, the NGT recorded a finding of fact that the appellant generated waste of quantity of 5643.75 MT and by adopting certain formula, fixed the Environmental Compensation at Rs.25,39,68,750/-. Another finding with which the appellant has a grievance is in paragraph 230 of the impugned judgment which reads thus:

"230. We, accordingly, answer issue VII holding that appellant having violated the provisions of Water Act, 1974, Air Act, 1981 and EP Act, 1986, therefore is also liable for action under PMLA 2002."

4. After recording a finding that the manner in which the Environmental Compensation was computed by the PCB was not correct, the only logical order which the NGT could have passed was to remand the matter to the PCB for redetermination of Environmental Compensation in accordance with law. Therefore, to that extent, the impugned order will have to be set aside.

5. Now, we come to paragraph 230 of the impugned judgment. Firstly, we find that complaints alleging the commission of the offences under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 were not even filed on the date on which the impugned judgment was passed by the NGT. There is no material placed on record to show that the complaints were filed even thereafter.

6. Our attention is invited to paragraph 382.8 of a decision of a Bench of the three Hon'ble Judges of this Court in the case of *Vijay Madanlal Choudhary & Ors. v. Union of India & Ors.* which reads thus:

"382.8. The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money laundering. The authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the court of competent jurisdiction, there can be no offence of money laundering against him or any one claiming such property being the property linked to stated scheduled offence through him."

(underline supplied)

7. In the facts of the case, there is neither a registration of First Information Report for any scheduled offence under the Prevention of Money Laundering Act, 2002 (for short "the PMLA") nor any complaint is filed alleging the offences under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of

Pollution) Act, 1981 and the Environment (Protection) Act, 1986. In the absence of existence of the scheduled offence, the proceedings under the PMLA cannot be initiated.

8. There is a serious doubt about the jurisdiction of the NGT to direct prosecution of an individual under the PMLA. However, we are not going into this question, as the direction contained in paragraph 230 will have to be even otherwise set aside.

9. The appeal is partly allowed by setting the direction contained in clause (I) of paragraph 232 of the impugned judgment as well as by setting aside that part of paragraph 230 which holds the appellant liable for action under the PMLA.

10. The order dated 28th May, 2020 of the Regional Officer, PCB, Kanpur Dehat, which was impugned before the NGT shall stand set aside and a fresh exercise shall be undertaken by the PCB for determination of the Environmental Compensation payable by the appellant in accordance with law.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
January 09, 2025.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 6398/2024

WARIS CHEMICALS PVT. LTD.

Appellant(s)

VERSUS

UTTAR PRADESH POLLUTION CONTROL BOARD

Respondent(s)

(IA No. 111914/2024 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 09-01-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s)

Mr. Ninad Laud, Adv.
Mr. Ashok Kumar Tripathi, Adv.
Mr. Swarnendu Das, Adv.
Mr. Umesh Kumar Shukla, Adv.
Mr. Sarthak Pathak, Adv.
Ms. Ishani Shekhar, Adv.
Mr. Gajendra Singh Negi, Adv.
Mr. Subhro Prokas Mukherjee, AOR

For Respondent(s)

Mr. Arvind Kumar, Adv.
Ms. Anuradha Mishra, Adv.
Mr. Abhay Kumar Mishra, Adv.
Mr. Ankit Kumar Vats, Adv.
Mr. James Bedi, Adv.
Ms. Anuradha Mishra, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is partly allowed in terms of the signed
order.

Pending applications also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)