

(1998) 11 AHC CK 0069

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 27299 of 1996 connected with
W.P. Nos. 30010/95

Anil Kumar Karnwal and Another; Niranjana Singti and Others; APPELLANT
Vs

State of U.P. and Others RESPONDENT

Date of Decision : 26-11-1998

Acts Referred:

Air (Prevention and Control of Pollution) Act, 1981 — Section 2(a), 2(b)
Constitution of India, 1950 — Article 21
Water (Prevention and Control of Pollution) Act, 1974 — Section 17, 4

Citation : (1998) 11 AHC CK 0069

Hon'ble Judges : D.P. Mohapatra, CJ and S.R. Singh, J

Final Decision : Disposed Of

Judgement

1. Writ Petition No. 27299 of 19% was initially instituted in the Supreme Court under Article 32 of the Constitution where it was registered as Public Interest Petition No. 522 of 1992 praying for issuance of directions, orders or writ including writ in the nature of mandamus, or any other appropriate writ for the enforcement of the rights of the petitioner and other residents of township of Muzaffarnagar to live in a pollution free environment by directing the respondents 3 to 8 to shift their Industries to a distant place from the populated area of the township ; to issue direction to respondents 1 to 9 directing them to shift/displace respondents 3 to 8 to some other place out of the Municipal limit of the Municipal Board of Khatauli ; to issue directions, orders or writ for closure of the respondents 3 to 8 in view of heavy pollution caused by them in the locality of Khatauli. The matter was monitored by the Apex Court but ultimately, the writ petition was transmitted to the High Court pursuant to the order dated Aug. 1, 1996, taking into reckoning that the High Court would be better equipped to delve into the situation, post fixed with the direction to treat the petition filed in the Apex Court, as having been filed in the High Court under Article 226 of the Constitution. W. P. No. 30010 of 1995 was instituted in this Court seeking similar reliefs in respect of Bone Mills situated within the Municipal limit of Hapur, district

Ghaziabad. The writ petition received from Supreme Court shall be treated as the leading file and govern the decision of the connected petition.

2. The petitioner No. 1, and Advocate practising in the Apex Court, has ostensibly under taken the public interest litigation as a matter of public duty, claiming himself to be a social worker actively dabbling in social awakening for the maintenance and preservation of the environment free from pollution and health hazards. The petitioner No. 2 was at that time, the Chairman, District Cooperative Bank Muzaffarnagar and had been the Chairman of Khatauli Municipal Board, District Muzaffarnagar. It was alleged that the respondent Nos. 3 to 8 were adversely affecting the environment in the Municipal area of Khatauli and thereby they were interfering with the fundamental rights of the petitioners and other citizens guaranteed under Article 21 of the Constitution. The respondents 1, 2 and 9 were impleaded being necessary party to facilitate access to legal action against the respondents 3 to 8 under the provisions of Environment (Protection) Act, 1986 and other relevant Legislation). It is further alleged in the petition that gaseous substances such as Phosphorus Pentoxide and Phosphorus Trioxide being emitted in the process of burning of bones without any fuel, would spawn giddiness and cause vomiting upon being inhaled. The petition was initially instituted qua the Khatauli Manure Mills, G.T. Road Khatauli Muzaffarnagar, Kamal Bones Manure Mills near Railway Godown Khatauli, Capital Bone Mills near Railway Godown Khatauli, Kohinoor Bone Manure Mills near Railway Godown Khatauli, Abdul Bone Factor near Railway Station Khatauli, Bone Godown Khatauli and Bone Godown in the district of Muzaffarnagar, arrayed as party respondents 3 to 8 followed by State of U.P., Union of India and the Municipal Board, Khatauli being impleaded as party respondents 1, 2 and 9 respectively. Subsequently, by an order dated 28th August, 1995, the Member Secretary U.P. Pollution Control Board, Pick Up Bhawan Vibhuti Khand, Lucknow was impleaded as party respondent No. 10. Notices were issued to the respondents by the Apex Court vide order, dated 7/11/94 and thereafter, the case figured on board before Apex Court on several dates until the petition was transmitted to this Court by means of the order, dated August 1, 1996. Some of the orders of the Apex Court are abstracted below to elicit instant reference.

10795:

This Court on Feb. 20, 1995, passed the following.

Order

The learned Counsel for the respondents industries very fairly states that if suitable alternative place is available, they would like to shift and relocate their industries. The respondents may apply their mind and come out with their proposal regarding various industrial estates near about where alternative places.....are available. The writ petition is adjourned for 8 weeks.

Mr. R.K. Jain, learned Senior Advocate, appearing for respondent No. 3, states

that the respondent industry is in the process of acquiring land in the State of Haryana and is likely to shift as and when the possession of the land is handed over and the necessary super structure is constructed. So far as the respondents 4 and 6 are concerned, the learned Counsel states that the industries have already shifted from Khatauli to Sheikhpura. We direct the U.P. Pollution Control Board to Inspect the industries and make a detailed report regarding the status of these industries within four weeks of the receipt of this order. The writ petition is adjourned to 28th August, 1995.?

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28895: ,

Mr. Dinesh Kumar, Executive Officer of the Municipal Board, Khatauli in his affidavit dated July 7, 1995 has stated that all the bone Mills of Khatauli including the Industrial Units of Respondents 3, 4 and 6 along with Ahsan Traders and Murdari Factory are closed and sealed by the District Administration of Muzaffarnagar since 28th September, 1994 due to heavy pollution caused by these Industrial Units. Learned Counsel for respondent Nos. 4 and 6 states that they have already shifted their Bone Mills from within the municipal limits of Khatauli. Be that as it may, we direct that Bone Mills/industries shall not start functioning till further orders. In case the Management wishes to remove any material from the premises of the Mills, they may be permitted to do so.

The application for impleadment filed by Pollution Control Board is allowed.

To be listed after 8 weeks.?

Thereafter, on 171195, the Apex Court made the following order.

171195:

Upon hearing the court made the following order, we have read the report, learned Counsel for the parties state that they would themselves visit the locality and then give their independent assessment of the Court. List the matter on 2411 95.

Issue notice on IA No. 6 returnable in six weeks.?

x x x x x

?List on 4th January, 1996. High up. Till the final disposal of the case, the Bone factory shall not operate. The proprietor may however have access to the factory for residence? purposes or for using the office for correspondence etc.?

On 191296 and 22496, the Apex Court again passed the following order.

19296

Upon hearing counsel the Court made the following

?Order

Respondent 3 has given an undertaking in the following terms.

?That the respondent No. 3 gives an undertaking that it will notice of the premises for any purposes which may cause water/Air/Soil Pollution in the area and no effluent shall be discharged and no Raw Bones shall be imported or stored. The respondent No. 3 further undertakes that he will not carry on any manufacturing process relating to Raw Bones.?

We permit the respondent to use the premises for any purpose which does not .produce either air, water or soil pollution. It shall also not create any noxious smell in the area. The trade shall also not be hazardous, noxious or injurious to health. We direct the U.P. Pollution Control Board to inspect the premises after two months and file a report in this Court regarding the activity being undertaken by respondent 3.

Respondent 4 has given an undertaking that the premises shall not be used for bone crushing purpose or any other purpose connected with bone crushing. He states that he would use the premises for the purpose, which shall neither produce air nor water pollution. It shall also not create any noxious smell in the area. The trade shall also not be noxious, hazardous or injurious to health. We permit the respondent to use the premises for the above mentioned purpose. The U.P. Pollution Control Board shall inspect the premises after two months and file a statue report in this Court.

Mr. Shakeel Ahmad appears for M/s. Ahsan Traders. He is an intervenor. His Industry has been closed under the order of the SubDivisional Magistrate, Jansath. The intervenor may proceed in accordance with law.

So far as Khatauli Bone Processing Industries are concerned, the matter is closed.

So far as Ghaziabad Bone Processing Industries are concerned, the U.P. Pollution Control Board has filed its report.

To be listed on 26th February, 1996.? .xx x x xx 8496

Upon hearing counsel, the Court made the following

Order

Pursuant to this Court's order dated March 11, 1996, the U.P. Pollution Control Board has issued notices to all the industries mentioned in the said order. We direct these industries to file their objections before the U.P. Pollution Control Board within two weeks from today. The objections shall be heard by the two officers, one nominated by the U.P. Pollution Control Board and the other by the Central Pollution Central Board. The objections shall be decided within two weeks thereafter and report be placed before this Court. When any industry approaches the U.P. Pollution Control Board for a copy of the report, that may be given in accordance with law.

Post the matter on 8th May, 1996

xx xx xx

22496:

Upon hearing counsel the Court made the following.

Order

Copy of the application to the learned Counsel for the U.P. Pollution Control Board. The Board may inspect the Units and thereafter in case the Units are found to be polluting units or they are nuisance to the residential area the Board may issue necessary notices in accordance with law. To come up on 8th May, 1996.?

(Emphasis supplied).

Ultimately, on August 1, 19%, the Apex Court made the following order.

1896:

This Public Interest Petition under Article 32 of the Constitution of India is directed against various industries connected with Meat and Bone Processing in the District of Ghaziabad, U.P. A mandamus is sought from this Court to direct the Bone Mills, Bone cleaning and Fat Processing Mills, Slaughter Houses and Meat Processing Units, Animal Glue Manufacturing Industries and various allied industries, be directed to control pollution or relocate themselves from the area.

This Court has been monitoring the matter till date. Notices have been issued by this Court to various industries. There are reports on record by the U.P. Pollution Control Board and the Central Pollution Control Board. In the process of relocation, if directed, it may be .necessary to interact with various departments/offices of the State Government. We are of the view that the High Court rather than this Court is better placed to deal with the situation. We, therefore, transfer this, writ petition to the High Court to be treated as a petition under Article 226 of the Constitution of India and be dealt with in accordance with law.

We request the Chief Justice of the Allahabad High Court to kingly constitute a Bench to deal with the environmental matters.

The parties concerned may appear before the Registry of the Allahabad High Court on August 22, 19%. The Registry shall then give further dates to the parties in accordance with the procedure of the Court.

The Registry to send the paper books and the Records of this Court to the Allahabad High Court within three days.?

In observance of the order dated 301095, the following report, it appears, was submitted by the Central Pollution Control Board through Sri D.K. Sharap, Environmental Engineer, Central Pollution Control Board Delhi.

?Central Pollution Control Board Delhi.

INSPECTION REPORT ON INDUSTRIES ENGAGED IN BONE PROCESSING AT KHATAULI, U.P. PURSUANT TO THE ORDER OF THE HON'BLE SUPREME COURT DATED 30/10/1995 IN THE W.P. NO. 552 OF 1994.

The above industries under reference were visited on 9/11/95. The visiting team comprised the following officials.

Sri Paritosh Kumar, Environmental Engineer

Sri D.S. Kharat, Environmental Engineer.

The observation and comments on these industries are given below:

(i) M/s. Khatauli Manure Mill.

The unit was inspected in the presence of Sri S.C. Sharma, Administrative Manager. This industry at present is not in operation. As mentioned by Shri S.C. Sharma, the industry is in the process of shifting to Doha, District Gurgaon of Haryana, for which they have obtained provisional NOC from Haryana State Pollution Control Board.

The industry could not provide time bound programme for dismantling of the plant and machinery.

(ii) M/s. Kamal Bone Manure Mills.

The correct name and address of this industry is given below.

M/s. Karnal Manure Factory,

Triveni Sugar Mill Road,

Shekhpura, P.O. Khatauli,

Distt. Muzaffarnagar (U.P.)

The above industry is located on agricultural land which is about half a kilometre (aerial distance) away from the habitation. During the visit, the industry was found closed.

As informed by Shri Mohd. Anees, partner, the Industry receives dry bone as raw material, and crushing and sieving take place at his work.

The production process in this industry revealed that it likely to cause air pollution or smell problems. However, actual pollution potential can be assessed with the industry comes into operation.

(iii) M/s. Kohinoor Bone Manure Mill.

The correct address of the industry is given below:

M/s. Kohinoor Bone Manure Mill,

Triveni Sugar Mill Road,

Shekhpura, P.O. Khatauli,
Distt. Muzaffarnagar (U.P.)

The above industry is also located on agricultural land about half a kilometer (aerial distance) away from habitation. During inspection, it was found closed.

Mr. Zahid, the industry representative informed that the industry is engaged in manufacturing of chicken feed stuff. The production process involves only mixing of bone dust (raw material) with deolied cake. Extent of pollution can be assessed when the industry comes into operation.

(iv) M/s Bone Godown Through its owners

Sri Sulaiman Khan and Sri Illahi Khatauli District Muzaffarnagar (U.P.)

(v) M/s. Capital Bone Mill

Through its owner Shri Ram Swarup, Mohalla Mutaaffaq, Sainin Nagar, Ward
12, Near Railway Godown, Khatauli Distt.

Muzaffarnagar (U.P.)

(v) M/s. Abdul Factory

through its owner Sri Abdul (near Railway Station)

Khatauli, Distt. Muzaffarnagar (U.P.)

The above three units were not found at the given address.?

The memberSecretary, Central Pollution Control Board processed a note dated 411996 under the heading "NOTE REGARDING SITING OF BONE MILLS.?"

?The Hon"ble Supreme Court is seized of the problem of location of Bone mills in the country and in the State of Uttar Pradesh in particular. In fact the bone mills are involved in processing of defleshed and waste bones from bone godown/industries for various beneficial uses. The raw material is first stored in open space so that it can be sundried perfectly. This period of drying the bones is critical as it creates noxious and unbearable smelt at the time of bacterial decomposition of left over flesh apart from its not being aesthetically. More so, the spread of these raw material in a wider space also attracts vultures, flies etc., which act as vectors in transmitting of diseases. As the drying of bones takes longer period during monsoon, the problem aggravates resulting in water and soil pollution. At times, the dry bones are soaked/boiled in brine solution, (common salt) in order to deflesh the bone and make it processfriendly. The waste water is disposed of without any treatment on land which results in pollution of surface water, ground water and soil. The process as a whole is noxious emitting foul smell, aesthetically unsound and environmentally unfriendly. However, "when it is unavoidable, the activities may be regulated in accordance with the recommendation mentioned hereunder:

(1) Bone Mills be located away from the habitation at least at a distance of not less than 2 Km.

(2) It should not be located in the upwind direction of the locality.

(3) The activities should also be away from the sensitive/religious and institutional areas, tourist resorts, hospitals, hotels and such other places.

(4) Any activity of this nature should have a consent from the State Pollution Control Board and the local municipal authorities.

(5) The waste water discharged from such units should be properly treated and not permitted to join any water body without treatment.

(6) The activity should be banned on air traffic routes, aerodromes/airstrips at least upto a distance of ten kilometre to avoid bird hits of aircraft which has become so frequent a phenomenon particularly in Ghaziabad area (Hindon base of the Air Force). The Aircraft Rules, 1937 framed under the Aircraft Act, 1934 also provide prohibition of certain activities in the vicinity of aerodrome. Rule 81B of the Aircraft Rules, 1937 read as under:

81B. Prohibition of slaughtering and flaying of animals, depositing of rubbish and other polluted or obnoxious matter in the vicinity of aerodromes. No person shall slaughter or flay any animal or deposit or drop any rubbish filth, garbage or any other polluted or obnoxious matter including such material from hotels, meat shops, fish shops and bone processing Mills which attracts or is likely to attract vultures or other birds and animals, within radius of ten kilometers from the aerodrome reference point:

Provided that the Director General or a Deputy Director General of Civil Aviation may, if he is satisfied that proper and adequate arrangements have been made by the owners of hotels, meat shops, fish shops and bone processing Mills so as to prevent attraction of vultures or other birds and animals, having regard to the vicinity of place of slaughter from the aerodrome, arrangements for disposal or deposit of carcass, rubbish and other polluted and obnoxious matter, grant permission in writing for the purpose.

3. The Environmental Engineer, Central Pollution Control Board, submitted an Inspection report embodying therein certain recommendations. The report dated 6/5/1996 is excerpted below:

Report on Inspection of the Bone Mills and other allied Industries in District Ghaziabad, U.P. pursuant to the Hon'ble Supreme Court's order dated April 8, 1996 in the subject matter of Writ Petition (Civil) No. 522 of 1994.

In the above writ petition, when the matter came up for hearing on 11/3/96, the Hon'ble Supreme Court directed the industries which are covered under this Writ Petition that a notice may be served to them. The Hon'ble Court issued the notices through the Uttar Pradesh Pollution Control Board (UPPCB) to the slaughter house, frozen meat processing units, bone Mills and allied industries,

bone cleaning and fat processing industries, animal glue manufacturing industries and raw hide trading/storage centre as to why they be not relocated closed and why pollution fine be not imposed for creating pollution and damaging the environment. The notices were made returnable on April 8, 1996:

?Notice was also issued to NCT, Delhi Administration for Gazipur dumping ground.?

The matter came up for hearing on April 8, 1996 when the Hon'ble Court directed as follows:

?These industries to file their objections before the U.P. Pollution Control Board within two weeks from today. The objections shall be heard by the two officers, one nominated by the U.P. Pollution Control Board and other by the Central Pollution Control Board. The objection shall be decided within two weeks thereafter and report be placed before this Court.?

In compliance with the above order, the industries were asked to submit their objections and to come for personal hearing on the 25th & 26th April, 1996 vide letter No. 100 Hawaii Patti Se Patrachar/96 from the U.P. Pollution Control Board. The status of pollution control in industries were reviewed after the hearing of the objections, Summary of observations in respect of slaughter houses, frozen meat processing industries and bone Mills and allied industries areas follows:

"1. SLAUGHTER HOUSE:

(i) Slaughter house, Hapur.

Dr. Kunwar Sain of City Board, Hapur told the Committee that there is no proposal for modernisation of slaughter house in Hapur. When the Committee enquired from Dr. Sain as to why they do not get the slaughter house modernised instead of closing it down, for which they shown interest. He was requested to get the necessary proposal approved from City Board,

(ii) Slaughter house, Ghaziabad.

Dr. J. Prasad, Sr. Health Officer, Nagar Nigam, Ghaziabad informed the Committee that they had made a proposal for construction of a new modernised slaughter house and carcass utilisation plant. He was asked to submit a concrete proposal so that the Committee could look into that. He has not yet submitted any proposal alongwith the time schedule as to when the existing slaughter house would be closed and the new one would be constructed.

(iii) Slaughter House Dasna.

Shri D.K. Sharma of the Nagar Panchayat, Dasna, Ghaziabad, informed the Committee that Dasna is a very small town and as such Nagar Panchayat is not having any proposal for modernisation of Slaughter house nor do they have funds for the purpose,

(iv) Slaughter House, Mussorie.

Neither any representative from the Panchayat, Mussoorie, Distt. Ghaziabad, appeared, nor they have submitted any objection in response to the notice,

(v) Slaughter House, Murad Nagar.

Neither any representative from the Nagar Palika Parishad, Murad Nagar, appeared, nor they have submitted any objection in response to the notice,

(vi) Slaughter House, Pilkhua.

Neither, any representative from the Nagar Panchayut, Pilkhua, appeared, nor they have submitted any objection in response to the notice, (vii) Slaughter House, Farid Nagar.

Neither any representative from the Nagar Panchayat, Farid Nagar, appeared, nor they have submitted any objection in response to the notice.

2. FROZEN MEAT PROCESSING INDUSTRIES.

There are 8 (eight) Frozen Meat processing industries Sahibabad and Dasna in the District of Ghaziabad. These Industries are engaged in production of frozen meat by processing raw slaughter meat obtained from outside and deboning it in their factory premises. All the industries have installed complete effluent treatment plant to treat their trade effluents. In the process, solid waste is generated in the form of bones, fats and waste pieces of meat. All the industries are having safe arrangement for storage of these solid wastes in their factory premises and within 24 hours, most of these wastes are disposed of in the light for utilisation by bones Mills and allied industries.

Individual status of the industries is as follows:

(i) M/s. Hind Industries Limited, B42 Site IV, Sahibabad.

The industry is processing around 160 tonnes of raw meat each day. From which, about 80 tonnes of solid waste is generated consisting of bones, fats and waste pieces of meat. The industry has asked to submit a proposal for utilisation of solid waste. The industry has not submitted any proposal so far.

(ii) M/s. Frigorifico Allana Limited, A15, Site IV, Sahibabad.

The industry is processing around 150 tonnes of raw meat each day. From which, about 75 tonnes of solid waste is generated consisting of bones, fats and waste pieces of meat. The industry informed the Committee that they are in the process of installing rendering plant for utilisation of solid waste just adjacent to their existing factory. The industry has already acquired the land from UPFC for the purpose. The industry has applied to the U.P. Pollution Control Board on 24496 for issuance of "No objection Certificate."

(iii) M/s. Anna Associates, Pvt. Ltd., Plot 108, Site IV Sahibabad.

The industry is processing around 20 tonnes of raw meat each day, from which

about 10 tonnes of solid waste is generated consisting of bones, fats and waste pieces of meat. When asked if they have any proposal for utilisation of solid waste, the industry informed that they do not have any such proposal.

(iv) M/s. Fair Exports India Pvt. Ltd., 20/1, Site IV, Sahibabad (Formerly known as Avus Engineering (P) Ltd.)

The industry is processing around 30 tonnes of raw meat each day, from which about 15 tonnes of solid waste is generated consisting of bones, fats and waste pieces of meat. The industry informed that they do not have any such proposal for utilisation of solid wastes.

(v) M/s. Arinant Exports (P) Ltd., B67, Site IV, Sahibabad.

The industry is processing around 12 tonnes of raw meat each day, from which about 6 tonnes of solid waste is generated consisting of bones, fats and waste pieces of meat. The industry is not having any proposal for utilisation of solid wastes.

(vi) M/s. M.K.R. Frozen Foods (P) Ltd., B/36, Site IV, Sahibabad.

The industry is processing around 24 tonnes of raw meat each day, from which about 12 tonnes of solid waste is generated consisting of bones, fats and waste pieces of meat. The industry has no proposal for utilisation of solid wastes.

(vii) M/s. M.K. Overseas (P) Ltd., B63 Site IV, Sahibabad.

The industry is processing approximately 35 tonnes of raw meat each day, from which about 16 tonnes of solid waste is generated consisting of bones, fats and waste pieces of meat. The industry has given a proposal that they are interested in shifting the industry by constructing an integrated plant consisting of modern slaughter house, meat processing unit and rendering plant. The industry has already got a land from UPSIDC Ghaziabad in its approved industrial area at Mussorie NTPC Road, Mossbotie. The industry has applied to the District Magistrate for the clearance of the project.

(viii) M/s. AJNafees Frozen Food Export (P) Ltd., Dasana Ghaziabad.

The industry is processing about 50 tonnes of raw meat each day, from which about 25 tonnes of solid waste is generated consisting of bones, fats and waste pieces of meat. The industry has informed the Committee that they are interested in setting up the rendering plant in the factory premises for which they are having sufficient land. The industry has been asked to provide the concrete proposal against which they have submitted that they are interested in setting up rendering plant, if necessary clearances are given.

3. BONE MILLS AND ALLIED INDUSTRIES.

(A) Bone Mills.

The following 13 industries are engaged in production of calcinated bone ash,

bone manure etc.

- (i) M/s. Hapur Bone Fertiliser Udyog, Hapur.
- (ii) M/s. National Bone Fertiliser, Hapur.
- (iii) M/s. Zeba Enterprises, Hapur.
- (iv) Ms. Standard Bone Manure, Hapur.
- (v) M/s. R.M.G. Bone Manure, Hapur.
- (vi) M/s. Bharat Feed and Fertilizer, Unit1, Hapur.
- (vii) M/s. Bharat Feed and Fertiliser, UnitII, Hapur.
- (viii) M/s. Hindustan Bone Mills, Hapur:
- (ix) M/s. Y.Z. Feed and Fertiliser, Hapur,
- (x) M/s. Gold Feed Bone Manure, UnitI, Hapur.
- (xi) M/s. Gold Feed Bone Manure, UnitII, Hapur.
- (xii) M/s. Bharat Enterprises, Hapur.
- (xiii) M/s. Hindustan Glue and Gelatine Works, Hapur.

In the above industries, waste defleshed bones fired for four five house in kilns to complete the calcination process. As such, no external fuel is used for burning of the bones. The kilns are about 15 feet high from ground level and the smoke emits from that level. The industries have not installed any air pollution control system. Some of the industries have shown interest in constructing the air pollution control system but none of them actually have started the work at site, 11 (eleven) industries have submitted a reply that they have appointed a consultant for installation of air pollution control devices but no proposal has been submitted so far.

(B) Bone Cleaning and Fat Processing Industries.

The following 7 industries are engaged in production of fat;

- (i) M/s. Golden Bone Manure, Hapur.
- (ii) M/s. Mohd. Badruddin, Hapur.
- (iii) M/s. Sri Babban, Hapur.
- (iv) M/s. Sir Mashita Alies Mashitullah, Hapur.
- (v) M/s. Gayasuddin, Hapur.
- (vi) M/s. Sri Iqbal Ahmad, Hapur.
- (vii) M/s. BioFeed Products, Hapur.

The above industries are engaged in production of fat/tallow by boiling the bones, fats and waste meat received from the frozen meat processing units. The solid wastes are boiled in open pans fired by woods from the bottom. The units create both air and water pollution. Any of the above industries has not provided any pollution control system and they operate on crude method for removing of the fat. The industries have not shown any interest in front of the Committee for adoption of pollution control measures.

(C) Animal Glue Manufacturing Industries. The following 20 Industries are engaged in production of glue;

- (i) M/s. Asia Glue and Fertilizers, Hapur.
- (ii) M/s. A.C. Glue Factory, Hapur.
- (iii) M/s. S.A. Glue, Factory, Hapur.
- (iv) M/s. Super Glue, Gelatine Factory, Unit I Hapur.
- (v) M/s. Raj Glue and Gelatine Factory, Hapur.
- (vi) M/s. U.P. Glue Udyog, Hapur.
- (vii) M/s. RJ. Glue Udyog, Hapur.
- (viii) M/s. Hapur Glue and Gelatine, Hapur.
- (ix) M/s. Kumar Glue and Gelatine Factory, Hapur.
- (x) M/s. J.K. Glue Udyog, Hapur.
- (xi) M/s. Avon Glue and Gelatine Factory, Hapur.
- (xii) M/s. G.M.G. Glue and Gelatine Factory, Hapur.
- (xiii) M/s. Kalf a Glue Factory, Hapur.
- (xiv) M/s. Prabhat Glue Factory, Hapur.
- (xv) M/s. Madeena Glue Factory, Hapur.
- (xvi) M/s. Super Glue and Gelatine Factory, UnitII, Hapur.
- (xvii) M/s. Bharat Glue and Fertiliser, Hapur.
- (xviii) M/s. Bharat Glue Udyog, Hapur.
- (xix) M/s. Chaudhary Glue and Gelatine Factory, Hapur.
- (xx) M/s. Net Glue and Gelatine Factory, Hapur.

The above industries are boiling waste leather cutting and bone since after wetting them to make glue. Lot of waste water is generated from witting operation and industries are boiling the material in open pans by burning of wood from the bottom. The industries have not made any concrete proposal for

construct on of waste water treatment system, some industries have shown interest in front of the Committee for construction of combined effluent treatment plant. The industries have submitted a proposal to the U.P. Pollution Control Board on 7396 for approval. Industry at SI. No. 20 is at present, engaged in tanning operations for which it has submitted treatment scheme to the U.P. Pollution Control Board on 20496 for approval.

(C) Rawhide Trading/Storage Centre (Charam Painth), Hapur (Commonly known as QureshHarijan Chamra Painth).

It is a trading centre for raw skins. Most of the trading is done one very Sunday. The raw skin obtained from nearby areas is tired in the premises for a week after preserving it with salts before selling these on Sundays. As such there is no use of water but lot of blood and other material is carried with the raw skins. The Mandi Samiti, Hapur, is in the process of constructing pucca roads and pucca platforms for trading of the skins. The area is located inside the human settlement. The land is owned by Mr. caiser Ali who is the main person for holding the Painth. The Painth Management is in the process of having effluent treatment plant for the floor washing effluent which will be generated while washing the platforms for keeping the market Clean.

RECOMMENDATIONS

(1) The licensing authority of the seven slaughter houses may be asked to modernise the slaughter house in a timebound programme otherwise they have to discontinue their activity.

(ii) There are eight frozen meat processing units and all of them have provided effluent treatment plant for waste water treatment. The present problem with these industries is in the form of solid waste which is generated by them and at present used by different bone Mills in the region. If the industry can utilise it in environment friendly manner by constructing rendering plant which is more or less same as carcass utilisation centre, the problem will be solved at the place where solid waste is generated rather than transporting it and creating nuisance at a place where it is processed in an unscientific and nonenvironment friendly manner. Out of the 8 units, M/s. Frigorifico Allana and M/s. Al Nafis have submitted proposals for rendering plant. M/s. M.K. Overseas wants to set up integrated meat processing plantcumslaughter house for which approval from the District Collector is awaited. Remaining five units have not submitted any proposal for utilisation of solid wastes in a scientific way but they have provided letters from different bone. Mills for utilisation of the same which are not located in Hapur but elsewhere in the State of U.P.

(iii) There are 40 bones Mills and allied industries in Hapur town which are situated within the municipal limit of the Hapur Town, as per new land use map. The minimum distance of human settlement from some of the Mills is about 100 metres while the further is about 1.5 Km. away None of the industries at present has provided any pollution control device and they work with crude methods.

Some of the industries have shown interest in construction of air and water pollution control systems but no time bound programme or concrete steps have been taken to implement the same. None of the industries have a consent from the U.P. State Pollution Control Board and at present they are not having any registration with local municipal authority. The untreated wastewaters from all of these units flow through Kachcha drain to Choiya nallah in which wastewater from Hapur town is also discharged. The above nallah joins the river kali. The industries are located at a distance of around 40 kms. from Hindon Airforce base. The industries may be asked to relocate themselves at some other place away from the municipal limits of Hapur town and improve the technology for manufacturing of the products so that the environmental pollution of the products so that the environmental pollution can be minimised in terms of air and water pollution.

(iv) There is one rawhide storate trading centre. The Mandi Samiti may be asked to construct pucca platforms and covered shades for trading and storage of raw skins. The owner of the place may be asked to construct the effluent treatment plant to treat the effluent generated from floor washings.?

4. We have heard one of the petitioners of writ petition No. 27299 of 1996 who appeared in person, Sri B.D. Mandhyan learned Counsel appearing for petitioners of Writ Petition No. 30010 of 1995, Sri Ravi Kiran Jain and Sri K.K Shangloo, Sri Dinesh Dwivedi, appearing for respondents Bone Mills* and Sri H.N. Tripathi appearing for respondent No. 10 and Sri Yatindra Singh, Addl. Advocate General U.P. and materials including the order dated 6997 and 9997 passed by the Board and annexed as Annexure SCA1 and SCA II to the supplementary counteraffidavit filed on behalf of the State Board. It has been strenuously argued on behalf of the contesting respondents (Bone Mills and Units) that the solid, liquid and gaseous substances being discharged in the process of operation in the bone Mills and units were not in such concentration as may or tend to be injuries to human being or other living creatures or plants or trees or environment and the respondents Bone Mills and/or Units have" submitted projects for effective prevention, control or abatement of air and water pollution, but the authorities did not apply their mind to the project so submitted and arbitrarily rejected the same. It was also canvassed on behalf of the bone Mills that the directions to shift the bone Mills can be issued only if it is found that the air pollutants are in excess of the standard laid *down by the State Board under clause (g) of subsection (1) of Section 17 and that too only in the event of Mill Owners failing to adopt preventing measure pursuant to suggestions and directions issued by the Board. The Board, it was submitted, has rather treated the matter in a casual manner and never preferred any effective suggestion, which they were under an obligation to do under the appropriate legislation. The learned Counsel submitted that the bone Mills did subserve public interest and their closure and relocation can be ordered only if it is discovered that the pollution cannot be prevented by adopting scientific pollution prophylactic measures.

7. According to the allegations made in writ petition, the Industries in question are causing mainly the soil pollution, air pollution and water pollution in the processing of bones etc. and it would therefore, be apt and proper to have the bird's eye view of the related provisions of the Air (Prevention and Control of Pollution) Act, 1981 and those of the water (Prevention and Control of Pollution) Act, 1974. Sections 2(a) and 2(b) of the Air (Prevention and Control of Pollution) Act, 1981 defines 'Air Pollutants and Air Pollution' as under:

2(a) 'air pollutant' means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment,

(b) 'air pollution' means the presence in the atmosphere of any air pollutant.

6. Section 17 lays down the functions of the State Pollution Control Board constituted under Section 4 of the Water (Prevention and Control of Pollution) Act, 1974, which inter alia includes the functions to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give, by order, such directions to such persons as it may consider necessary to take steps for the prevention, control or abatement of air pollution; to inspect air pollution control areas at such intervals as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement of air pollution in such areas, to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the atmosphere from any other source whatsoever not being a ship or an aircraft, to advise the State Government with respect to the suitability of any premises or location for carrying on any industry which is likely to cause air pollution. Section 19 Of the said Act empowers the State Government to declare in such manner as may be prescribed, after consultation with the State Board, any area or areas within the State as air pollution control area or areas for the purposes of this Act, Section 21 of the Act puts an embargo on establishment or operation of any Industrial plant in an air pollution control area, except with the previous consent of the State Board Section 22 forbids any person operating any Industrial plant in any air pollution control area from discharging or causing or permitting to be discharged the emission of any air pollutant in excess of the standards laid down by the State Board under clause (g) of subsection (1) of Section 17 of the Act, Section 22A of the Act provides that the Board may make application to Court for restraining persons from causing air pollution in any air pollution control area. Section 31 of the Act provides for an appeal by any person aggrieved by an order made by the State Board under this Act to an appellate authority which, according to subsection (2) of Section 31 shall consist of single person or three persons as the State Government may think fit to be appointed by the State Government Section 31A of the Act empowers the Board to give directions. The

section reads as under:

31A Power to give directions. Notwithstanding anything contained in any other law, but subject to the provisions of this Act and any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, Officer or authority shall be bound to comply with such directions.

Explanation. For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct the closure prohibition or regulation of any industry operation or process, or

(b) the stoppage or regulation of supply of electricity, water or any other service.

7. Even in the orders dated 6997 and 9997 passed by the Uttar Pradesh Pollution Control Board, rejecting the Project submitted by Glue factories situated at Rampm Road Hapur, Ghaziabad, there does appear no manifestation of the extent and degree of the air and water pollution. The term "pollution" in relation to water as defined in Section 2(e) of the Water (Prevention and Control of Pollution) Act, 1974, means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organism. Section 17 of the Water (Prevention and Control of Pollution Act, 1974, enumerates the functions of State Board and such functions include inter alia the functions to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plants specifications or other data relating to plants set up for the treatment of water works for the purification thereof and the system for the disposal of sewage or trade effluents or in connection with grant of any consent as required by this Act, to lay down, modify or annul effluent standards for the sewage and trade effluents and for the quality of receiving waters (not being water in an interState stream) resulting from the discharge of effluents and to classify waters of the State; to make, vary or revoke any order (i) for the prevention, control or abatement of discharges of waste into streams or Wells, (ii) requiring any person concerned to construct new systems for the disposal of sewage and trade effluents or to modify alter or extend any such existing system or to adopt such remedial measures as are necessary to prevent, control or abate water pollution, to lay down effluent standards to be complied with by persons while causing discharge of sewage or sullage or both and to lay down, modify or annual effluent standards for the sewage and trade effluents. Trade effluents as defined in Section 2(k) of the 1974 Act includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any Industry, operation or process or treatment and disposal system other than

the domestic sewage. Section 33A empowers the State Board in exercise of its powers and performance of its functions under the Act, to issue any directions in writing to any person, officer or authority, including the powers to direct (a) closure, prohibition or regulation of any industry, operation or process ; or (b) the stoppage or regulation of supply of electricity, water or any other service. A conspectus of the provisions contained in the Air (Prevention and Control of Pollution) Act, 1981 and those of the Water (Prevention and Control of Pollution) Act, 1974 would be eloquent of the fact that the Board has ample powers to direct closure, stoppage or regulation of any Industry operation or process causing water pollution. The power of closure, prohibition or stoppage of any Industry, operation or process emitting air pollutants is to be exercised on fulfilment of prerequisite conditions. From the definition of 'air pollution' it is evident that in order to constitute 'air pollution', the 'air pollutants' i.e. any solid, liquid or gaseous substance (including noise) must be present in the atmosphere in such concentration as may be or tend to be injurious to human being or the other living creatures or plants or property or environment and injunction restraining any person from emitting air pollutants will arise only where it is found that the emission of any air pollutant is in excess of the standards laid down by the State Board under clause (g) of subsection (1) of Section 17 of the Air (Prevention and Control of Pollution) Act, 1981 from the reports and other materials on record, we do not find nor was our attention drawn to any such material during the course of arguments which may be speak that the respondents Industries were emitting any air pollutants in excess of standards laid down by the State Board under clause (g) of subsection (1) of Sec. 17 of the Air (Prevention and Control of Pollution) Act, 1981.

8. Considering the submissions and analysing the reports and orders of the Board, we are of the view that the orders dated 6/9/1997 and 9/9/1997 have been passed sans proper self direction to the related provisions of the Act and sans also any finding that air pollution or water pollution caused by the factories in question are beyond the prescribed standard. The project submitted by the factories, in our opinion, calls for being reconsidered. The Board must determine the extent and degree of pollution, whether air or water and its impact upon the life of mankind, plants and other living creatures and give proper directions as visualised by Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 and Section 33A of Water (Prevention and Control of Pollution) Act, 1974. The Court is also of the view that if no proper self direction to the relevant factors, the Board considers relocation of the factories necessary, it must give proper advise to the State Government for providing suitable site in discharge of the obligations cast upon it by virtue of clause (n) of Section 17 of the Air (Prevention and Control of Pollution) Act, 1981 and clause (h) of Section 17 of the Water (Prevention and Control of Pollution) Act, 1974. Upon over all consideration of the facts and circumstances of the case we accordingly do not approve of the orders dated 6/9/1997 and 9/9/1997 passed by the Uttar Pradesh Pollution Control Board and direct them to reconsider the matter and pass

appropriate orders in accordance with law upon proper self direction to the relevant factors and after determining the extent and degree of the pollution likely to be caused by the respondents factories. Any such order to be passed by the U.P. Pollution Control Board shall spell out categorically if the pollution likely to be caused by the respondents factories, would be beyond the prescribed standard and give definite suggestions for control, prevention and stoppage or relocation of the factories. In order to determine, the extent and degree of pollution in the air or water, it may be made clear that the respondents factories may be allowed by the Board to resume work for a given period for pollution testing in order to get hang of the extent and degree of the pollution. Before parting, it is deserving of observation that so far as Capital Bone Processing Industry is concerned, the same has already been shut down as would be evident from the order dated 19296 passed by the Apex Court and Kamal Bone Manure Mills, Khatauni and Kohinoor Bone Manure Mills have shifted their bone Mills from the Municipal Limits of Khatanui to Sheikhpura as would be evident from the orders dated 10795 and 28895 of the Apex Court abstracted hereinabove. However, bone Mills, shall not resume regular functioning apart from pollution testing purposes, except on the basis of clearance from the State Pollution Control Board same restrictions may apply in relation to Capital Bone Mills, Abdul Bone Factory and Bone godown of Khatauli in the district of Muzaffarnagar and other bone Mills situate at Hapur Road in Ghaziabad. It may be observed that the Board while passing any order directing closure or stoppage of the factory in question shall bear in mind that the Industries in question also subserve public purpose. In *M.C. Mehta v. Union of India*, AIR 1987 SC 965, the Apex Court observed as under:

?We cannot possibly adopt a policy of not having any chemical or other hazardous industries merely because they pose hazard or risk to the community, if such a policy were adopted, it would meant the end of all progress and development. Such industries, even if hazardous, have to be set up since they are essential for economic development and advancement of well being of the people. We can only hope to reduce the element of hazard or risk to the community by taking all necessary steps for locating such industries in a manner which would pose last risk or danger to the community and maximising safety requirements in such industries. We would, therefore, like to impress upon the Government of India to evolve a national policy for location of chemical and other hazardous industries in areas where population is scarce and there is title hazard or risk to the community, and when hazardous industries are located in such area, every care must be taken to see that large human habitation does not grow .around them. There should preferably be a green belt of 1 to 5 km. width around such hazardous industries.?

At the same time, it may be observed that the closure of an industry would no doubt cause hardship to the owners but as held by the Supreme Court, in *R.I. and L. Kendra Dehradun v. State of U.P* ?.....it is a price that has to be paid for protecting and safeguarding the right of the people to live in healthy

environment with minimal disturbance of ecological balance and without avoidable hazard to them and to their cattle, hives and agricultural land and undue affectation of air water and environment.?

9. As a result of for going discussions, the petitions are disposed of finally subject of course to the observations and directions that appropriate decision shall be taken by the Board within a period of three months from the date of production of a certified copy of this judgment/order.