
(2018) 08 UK CK 0093

In the Uttarakhand High Court

Case No : WRIT PETITION (PIL) NO. 77 OF 2017

Himanshu Chandola

APPELLANT

Vs

State of Uttarakhand and others

RESPONDENT

Date of Decision : 17-08-2018

Acts Referred:

Environment (Protection) Act, 1986 — Section 6, 25

Environment (Protection) Rules, 1986 — Rule 3, 5, 6, 7, 8, 9, 10, 11

Citation : (2018) 08 UK CK 0093

Hon'ble Judges : Rajiv Sharma, J; Manoj Kumar Tiwari, J

Bench : Division Bench

Advocate : Lalit Sharma, Paresh Tripathi, Aman Rab, Narendra Bali, Pankaj Kumar Singh, Imran Ali Khan, Pradeep Upreti, Sandeep Kothari

Judgement

Rajiv Sharma, Acj (Oral)

Manoj Kumar Tiwari, J.

1. In sequel to the directions issued by this Court on 16.08.2018, the Member Secretary, Uttarakhand Environment Protection and Pollution Control

Board is present in Court with Mr. (Dr.) Ankur Kansal, Regional Officer of the said Board.

2. The Court had specifically directed respondent no. 2 to place on record a copy of one of the notices, which has been issued to the private

respondents to ascertain, whether the provisions of Environment Protection Act, 1986 and Rules framed thereunder were mentioned or not. Today, a

copy thereof was placed before us. On specific query put to Mr. Aman Rab, learned counsel appearing for the Uttarakhand Environment Protection

and Pollution Control Board, he has drawn attention of the Court to Page 3 of the notice. This talks only of Hazardous & Other Wastes Rules, 2016.

3. It is evident from a combined reading of one of the notices dated 20th April, 2018 that the focus is only on The Air (Prevention & Control of Pollution) Act, 1981 and The Water (Prevention & Control of Pollution) Act, 1974. There is no whisper about the provisions of the Environment (Protection) Rules, 1986.

4. Section 6 of the Environment (Protection) Act, 1986 lays down that the Central Government may, by notification in the Official Gazette, make rules in respect of all or any of the matters referred to in Section 3. Section 25 of the Environment (Protection) Act, 1986 lays down that the Central

Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act. The Central Government has framed the

Rules under Section 6 read in conjunction with Section 25 of the Environment (Protection) Act, 1986 called Environment (Protection) Rules, 1986

(hereinafter referred to as the Rules). Rule 3 provides that for the purposes of protecting and improving the quality of the environment and preventing

and abating environmental pollution, the standards for emission or discharge of environmental pollutants from the industries, operations or processes

shall be as specified in Schedule I to IV. Sub-rule (2) of Rule 3 starts with non-obstante clause. It says that notwithstanding anything contained in sub-

rule (1), the Central Board or a State board may specify more stringent standards from those provided in Schedule I to IV in respect of any specific

industry, operation or process depending upon the quality of the recipient system and after recording reasons, therefor, in writing. Sub-rule (3A) of

Rule 3 provides that notwithstanding anything contained in sub-rules (1) and (2), on and from the 1st day of January, 1994, emission or discharge of

environmental pollutants from the industries, operations or processes other than those industries, operations or processes for which standards have

been specified in Schedule I shall not exceed the relevant parameters specified in Schedule VI, provided that the State Board may specify more

stringent standards for the relevant parameters with respect to specific industry or locations after recording reasons thereof in writing. It is also

stipulated under Rule 3 that the State Board shall while enforcing the standards specified in Schedule VI follow the guidelines specified in Annexures I

and II of the Schedule. Rule 5 prohibits and restricts the location of the industries and the carrying on processes and operations in different areas. Rule

6 provides for procedure for taking samples. Service of notice is stipulated in Rule 7. The procedure for submission of samples for analysis, and the form of laboratory report thereof is provided in Rule 8. The functions of environmental laboratories are stipulated separately in Rule 9. The qualification of Government Analyst is provided in Rule 10. The manner of giving notice is provided in Rule 11.

5. We have gone through the Schedules framed under Rule 3. These Schedules lay down very stringent parameters to check air pollution and water

pollution. The Schedule is Industry specific. It is clear from the plain phraseology of Rule 3 that the State Government can prescribe more stringent

provisions than provided by the Central Government. The guidelines are to be followed by the State Pollution Control Board. It is not evident from the

record that the State Pollution Control Board has ever inspected any industry to see, whether the parameters laid down in the Schedules of the

Environment (Protection) Rules, 1986 discussed above are being complied with in letter and spirit. Dr. Ankur Kansal, Regional Officer has submitted

that since they lack the necessary facilities, it was not possible for them to collect the samples for analysis. We fail to understand, how a statutory

body created under the Act can be oblivious of the provisions of the law, under which it is created. The State of Uttarakhand is a fast developing

State. There has to be sustainable development. Sustainable development presupposes that the development shall not be at the cost of environment.

We have seen the pictures. They depict sorry state of affairs. The reason for ever rising pollution in the State of Uttarakhand is non-compliance of the

provisions of the law. If the enforcing agency itself is ignorant of the law, how on the earth, it can be expected to enforce the same. Since respondent

no. 2 has miserably failed to enforce the provisions of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of

Pollution) Act, 1981 as well as the Hazardous Wastes (Management and Handling) Rules, 1989 and the Environment (Protection) Act, 1986 and the

Rules framed thereunder, we are constrained to implead Central Pollution Control Board through its Member Secretary to be respondent no. 33 in this

writ petition. The Registry is directed to carry out corrections in the memo of parties. Mr. Mohit Maulekhi, Advocate, generally appears on behalf of

the Central Pollution Control Board and we have impressed upon him to take the notice on behalf of the Central Pollution Control Board in view of the

urgency of the matter.

6. Accordingly, we direct the newly added respondent to inspect each and every industry in the State of Uttarakhand to see, whether the norms laid

down under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Hazardous Wastes

(Management and Handling) Rules, 1989 and more specifically the Environment (Protection) Rules, 1986 (Schedule I to VII) are being complied with,

within a period of six weeks from today. The report shall be submitted to this Court in a sealed cover. Thereafter, depending on the report, this Court

will pass further orders.