

BEFORE SHRI SUSHIL KUMAR SINGLA, IFS, SECRETARY (ENVIRONMENT, SCIENCE, TECHNOLOGY & CLIMATE CHANGE) TO THE GOVERNMENT OF HIMACHAL PRADESH -cum- THE APPELLATE AUTHORITY UNDER SECTION 31 OF THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981.

M/s Symbiosis Pharmaceuticals Pvt. Ltd

.....Appellant

VERSUS

Himachal Pradesh State Pollution Control Board (HPSPCB)

.....Respondent

Dated 01.07.2026

Case called at 11.30AM

Present: Sh. Bharat Singh for the M/s Symbiosis Pharmaceuticals Pvt. Ltd.

Sh. Pawan Sharma, Regional Officer, HPSPCB, Paonta Sahib, Sh. Sandeep Kumar, Law Officer, HPSPCB, Tarun Thakur, Asstt. Law Officer, HPSPCB for the Respondent.

Heard. The present Appeal has been filed by M/s Symbiosis Pharmaceuticals Pvt. Ltd, Suketi Road, Village Nagal, Kala Amb, District Sirmour, H.P. under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as the 'Air Act, 1981' in short) for quashing & setting aside of order dated 16.07.2024, passed by the H.P. State Pollution Control Board imposing Environmental Compensation (EC) of Rs. 43,68,750/- on the Appellant unit.

The aforesaid EC of Rs. 43,68,750/- has been imposed by the respondent Board vide order dated 16.07.2024 on the Appellant unit for 06 consecutive failure of water samples, taken from the outlet discharge of the Appellant unit.

The Appellant has challenged the impugned order dated 16.07.2024 mainly on the ground that the respondent Board has imposed the EC without adopting the sampling procedure prescribed in Notification dated 28.02.2015 of H.P. State Pollution Control Board regarding taking of consecutive samples wherein, it is provided that in case first


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sample fails, the second sample is to be taken within 30 days and analyzed as soon as possible. The Appellant has contended that contrary to the aforesaid notification, there have been large gaps in collection of 06 water samples taken by the respondent Board. It has been further contended that the quantum of EC is arbitrary and excessive.

This appeal is a second round of litigation as the Appellant had earlier filed an appeal on the same cause of action challenging the impugned order dated 16.07.2024 of the respondent Board under section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the 'Water Act, 1974' in short). However, the Appeal was dismissed by this Appellate Authority vide order dated 06.01.2026 on the ground of lack of jurisdiction to entertain the Appeal under the Water Act, 1974. It was observed in the aforesaid order dated 06.01.2026 that the scope of appeal before the Appellate Authority constituted under section 28 of the Water Act is limited to orders passed by the State Pollution Control Boards under section 25, 26 and section 27 of the Water Act.

Now, the Appellant unit has filed the present appeal before this Appellate Authority under section 31 of the Air Act, 1981, on the same cause of action i.e. for quashing & setting aside of order dated 16.07.2024, passed by the respondent Board imposing Environmental Compensation (EC) of Rs. 43,68,750/- on the Appellant unit.

The operative part of the impugned order dated 16.07.2024 of the respondent Board reads as follows:

"...In view of above facts and continuous and confirmed violation of 6 nos. of samples from the outlet discharge of the unit, you are hereby directed to deposit an Environmental Compensation amounting to Rs. 43,68,750 (i.e. Forty Three Lakhs Sixty-Eight Thousand and Seven Hundred Fifty only) in the account of Member Secretary, HP State Pollution Control Board, Bank of Baroda A/c no. 54140100001617 (IFSC Code BARBONEWSIM) within 3 days failing which action under the provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 shall be initiated against you and submit the receipt/compliance report to this office at the earliest..."

The respondent Board has raised preliminary objection on the ground that the present Appeal filed before the Appellate Authority under the Air Act is not maintainable, as


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Environmental Compensation (EC) has been imposed on the Appellant Unit only under the Water Act, 1974 on account of failures of water samples taken from the outlet discharge of the unit. It is contended that the impugned order dated 16.07.2024 was passed by the respondent Board on the basis of show cause notices given to the Appellant Unit for the violation of the Water Act, 1974 only. Therefore, the present Appeal is not maintainable, as no cause of action arise out of the impugned order dated 16.07.2024 for filing the present Appeal under Section 31 the Air Act, 1981. It is further contended that the appellant instead of approaching the appropriate forum, is adopting dilatory tactics and the present Appeal filed under the Air Act, 1981 is entirely unreasonable.

On the other hand, the appellant has argued that the impugned action is part of a composite regulatory framework administered by the respondent Board and therefore the appeal is maintainable and the contention of the respondent Board that the appeal is not maintainable merely because the order pertains to the Water Act is hyper-technical and defeats the right to remedy.

The respondent Board has placed reliance on the Judgment dated 30.05.2022 of the Hon'ble NGT (Southern Zone, Chennai) in the matter of *Michael Lambert Jehan vs. Tamil Nadu Pollution Control Board &ors* wherein, the Hon'ble NGT has held that where the impugned orders are composite in nature and incapable of being split, the appeals are not maintainable before the Appellate Authority.

The Hon'ble NGT while passing the aforesaid Judgment dated 30.05.2022 has considered the remedy available to the aggrieved parties in such a scenario and placed reliance on the decision of the Hon'ble Supreme Court of India in the matter of *Tamil Nadu Pollution Control Board vs. Sterlite Industries (India) Limited & Ors*[(2019) 19 SCC 479], which reads as follows:

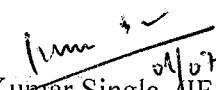
"...31. Therefore, when the impugned orders are composite in nature and incapable of being split the appeals are not maintainable before the Appellate Authority. In view of the 'Sterlite Case' though alternative remedy of appeal is maintainable under the Water (Prevention and Control of Pollution) Act, 1974, the order of Pollution Control Board being a composite one, it will not preclude the appellant from challenging under Article 226. Therefore, we set aside the order dated 25.02.2022 in Appeal No. 80 of 2019 and restore the order dated 06.12.2019 of the Tamil Nadu Pollution Control Board..."


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In view of the submissions made by both the parties, this Appellate Authority is of considered view that no cause of action arise out of the impugned order dated 16.07.2024 under the Air Act, 1981, as EC has been imposed on the Appellant Unit only under the provisions of the Water Act, 1974 on account of failures of water samples taken from the outlet discharge of the unit.

Further, if the contention of the Appellant unit is to be accepted that the order passed by the respondent Board is composite in nature (i.e. the order is considered to be passed under the provisions of both the Air Act, 1981 and the Water Act, 1974), even in such a case, the appeal shall not be maintainable before the Appellate Authority due to lack of jurisdiction, in view of the decisions cited above.

Accordingly the appeal is dismissed.


Sushil Kumar Singla, (IFS)

Appellate Authority
-cum- Secretary (EST&CC) to the,
Govt. of Himachal Pradesh.