



2026:AHC-LKO:19278

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 2115 of 2026

M/S A.C.C. Ltd. Thru. Its Auth. Singnatory Mr.
Amitabh Rajat

.....Applicant(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Deptt. Home
Lko. And Confidential Lko. And Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Rakshit Raj Singh, Akshay Kumar
Singh

Counsel for Opposite Party(s) : G.A., Ashok Kumar Verma, Vaibhav
Mishra

Court No. - 13

HON'BLE SAURABH LAVANIA, J.

1. Heard Shri J.N. Mathur, learned Senior Advocate assisted by Shri Rakshit Raj Singh, Shri Arun Kumar Pandey, learned AGA for the State/opposite party No.2 as well as Shri Vaibhav Mishra, who has filed his Vakalatnama on behalf of opposite party No.2/U.P. Pollution Control Board (in short "Board"), which is taken on record.

2. The present application under Section 482 Cr.P.C. has been filed for the following main relief(s):-

"(i) To quash the impugned summoning order dated 01.09.2022, passed by the Special Judicial Magistrate Pollution/CB.I., Lucknow (annexed as Annexure No. 1) and all consequential orders passed therefrom in Complaint Case No. 7219/2020 which is cause titled as U.P. Pollution Control Board vs. M/s A.C.C. Ltd. & others and currently pending before the Special Judicial Magistrate Pollution/C.B.I., Lucknow insofar as the applicant is concerned.

(ii) To quash the entire criminal proceedings of Complaint Case No.7219/2020 which is cause tilted as U.P. Pollution Control Board vs. M/s A.C.C. Ltd. & others, pending before the Special Judicial Magistrate Pollution/C.B.I., Lucknow insofar as the applicant is concerned."

3. Vide the impugned order dated 01.09.2022, the Special Judicial Magistrate Pollution/C.B.I., Lucknow (in short "Magistrate") passed in Complaint Case No.7219/2020 (C.N.R.No. UPLK04078530-2020) (U.P. Pollution Control Board Vs. M/s A.C.C. Ltd and others) has summoned the Principal Officers of the applicant namely M/s A.C.C. Ltd. to face the trial for the offence under Section 37 of the Air (Prevention and Control of Pollution) Act, 1981 (in short "Act of 1981").

4. From the order, in issue, it appears that the Magistrate summoned the applicant for carrying out the business activities in violation of Section 21 of the Act of 1981 by saying that applicant without obtaining previous consent from the Pollution Control Board as required under Section 21 of the Act of 1981 was carrying out the the business activities on 14.12.2020 (the date of inspection of the premises). The relevant portion of the order in issue dated 01.09.2022, is extracted herein under :-

"सुना गया एवं पत्रावली का अवलोकन किया गया।

परिवादी ने अपने कथनों के समर्थन में एनेक्श्चर-01 निरीक्षण आख्या दिनांकित 14.12.2020 की प्रति, एनेक्श्चर-02 राज्य बोर्ड द्वारा विपक्षीगण के विरुद्ध अभियोजन किये जाने हेतु अनुशंसा दिनांकित 22.12.2020 एनेक्श्चर-03 व 04 से उ० प्र० प्रदूषण नियंत्रण बोर्ड द्वारा प्रस्तुत परिवाद दाखिल किए जाने के बाबत बोर्ड द्वारा जारी अभियोजनात्मक कार्यवाही हेतु प्रपत्र आदि दस्तावेज दाखिल किए गए हैं।

उक्त प्रपत्रों के अवलोकन से यह दर्शित है कि परिवादी द्वारा विपक्षी सं०-01 लगायत 10 द्वारा राज्य प्रदूषण नियंत्रण बोर्ड की पूर्व सहमति प्राप्त किए बिना उद्योग का संचालन किया गया।
अतः प्रथम दृष्टया धारा-21 एवं 31 ए वायु अधिनियम के आज्ञापक प्रावधानों का उल्लंघन विपक्षी सं०-01 लगायत 10 द्वारा किया जाना दर्शित है। अतः उपरोक्त के आधार पर विपक्षी सं०-01 लगायत 10 को धारा-37 वायु अधिनियम 1981 के तहत तलब किए जाने का आधार पर्याप्त है।"

5. It is to be noted that the complaint was filed by the Board on two grounds, as appears from the paragraphs 3 and 4 of the complaint, which are extracted herein under :-

"3.That it is pertinent to mention here that the opposite parties have establish their industrial plant without obtaining previous consent from the Complainant Board which is violating the

provision of Section 21 of the Air (Prevention and Control of Pollution) Act, 1981.

4. That the site of the industrial plant was inspected on 14.12.2020 by the officers authorized by the Board. During the inspection the industrial unit in question was found operational in violation of the conditions of the consent issued by the complainant Board. Further it is stated that during the inspection dust particles found uncovered in the premises and no water sprinklers found established to settle the dust particles while loading and unloading of building materials. The inspection report dated 14.12.2020 is being annexed herewith as Annexure No.-1 to this Complaint."

6. Challenging the order of the Magistrate dated 01.09.2022, Shri Mathur, the learned Senior Advocate, has stated that the consent was sought from the Board as required under Section 21 of the Act of 1981 and the same was provided vide consent order dated 15.12.2018 and thereafter vide consent order dated 05.08.2020.

7. On the aforesaid, reference has been made to consent order(s) dated 15.12.2018 and 05.08.2020, annexed as Annexure Nos. 5 & 6, respectively, to the instant application.

8. From a bare perusal of the order(s), referred above, it is evident that the consent was provided to applicant-M/s A.C.C. Ltd. and the same was valid from 14.12.2018 to 31.07.2020 thereafter w.e.f. 04.08.2020 to 31.03.2022. Thus, the consent provided by the Pollution Control Board was valid on the date of inspection i.e. 14.12.2020.

9. Upon due consideration of the aforesaid, this Court finds that the impugned order dated 01.09.2022, passed by the Magistrate is liable to be interfered with by this Court. It is for the following reason(s) :-

(i) The consent for carrying out the business activity was valid on the date of inspection of the premises.

(ii) The Magistrate concerned has not considered the Inspection Report

dated 14.12.2020 while passing the impugned order, though ought to be.

10. In view of the aforesaid, the instant application is ***allowed***. The impugned order dated 01.09.2022 is set aside.

11. The matter is remanded back to the Magistrate concerned, who shall pass appropriate order(s) in the matter afresh, as per law, after taking note of the documents available on record, including the consent order(s), referred above.

12. If the consent order(s) have not been filed before the Magistrate, the same shall be placed on record by the Board as to the view of this Court before instituting the criminal proceedings the Board was under obligation to first verify the genuineness of the adverse report after considering the record available with Board and thereafter file the complaint alongwith all the relevant documents/evidence.

13. The Magistrate concerned shall pass fresh order within a period of two months from the date of production of certified copy of this order.

(Saurabh Lavania,J.)

March 17, 2026

ML/-