

In The High Court Of Judicature At Allahabad
Sitting At Lucknow

Neutral Citation No. - 2025:AHC-LKO:9222-DB

A.F.R.

Reserved

Judgment Reserved On: 17.01.2025
Judgment Pronounced On: 13.02.2025

Court No. – 1

Case :-WRIT - C No. - 10671 of 2024

Petitioner :-M/S Al-Haq Foods Pvt. Ltd. Thru Its Director Navin Kumar Bhambri

Respondent :- State Of U.P. Thru Addl. Chief/Prin.Secy. Deptt. Of Environment Forests And Climate Change And Ors.

Counsel for Petitioner :-AbhinavSingh,Lalta Prasad Misra

Counsel for Respondent :- C.S.C.,Ashok Kumar Verma

Hon'ble Attau Rahman Masoodi J.

Hon'ble Subhash Vidyarthi J.

(Per: Hon'ble Subhash Vidyarthi, J.)

Prologue:

1. Heard Dr. Lalta Prasad Misra and Sri Abhinav Singh, Advocates, the learned counsel for the petitioner, Sri Vinod Kumar Shahi, the learned Additional Advocate General assisted by Sri Shailendra Kumar Singh, the learned Chief Standing Counsel and Sri Akash Sinha, the learned Standing Counsel appearing on behalf of the State, Sri Satish Chandra Mishra, Senior Advocate assisted by Sri Ashok Kumar Verma, Advocate, the learned counsel for the U.P. Pollution Control Board and perused the records.
2. By means of the instant Writ Petition, the petitioner has challenged the validity of an order dated 14.11.2024 passed by the Chief Environment Officer, U. P. Pollution Control Board (which shall hereinafter be referred to as 'the Board'), cancelling the 'Consolidated Consent to Operate and Authorisation' (which will hereinafter be

referred to as 'C.C.A.') issued to the petitioner on 23.08.2024 for running an animal slaughter house.

3. The petitioner-company is a registered Small Scale Industry with the Ministry of Micro, Small & Medium Enterprises (MSME), Government of U.P. The petitioner applied to the District Level Committee headed by the District Magistrate, Unnao for grant of a no objection certificate (NOC)/approval for establishing a modern animal slaughter house at UPSIDC Industrial Area, Site-II, Unnao. The District Level Committee obtained a report from various departments, including Executive Engineer, Electricity Department, Food Safety and Standards Authority of India (FSSAI), Chief Fire Officer, District Industries Centre, Chief Veterinary Officer, Sub Divisional Magistrate, Regional Officer, U.P. Pollution Control Board and Superintendent of Police, Unnao. After obtaining reports from the aforesaid authorities, the District Magistrate, Unnao granted administrative/local no objection certificate dated 21.05.2015 to the petitioner for establishing a modern export oriented animal slaughter house.
4. No objection was granted to the petitioner subject to 69 conditions mentioned in the certificate, including the condition that the petitioner will make arrangements for cattle farming so as to maintain a balance in the number of cattle; the petitioner will establish a calf rearing center of buffaloes, it will provide assistance to animal keepers in implementing schemes for running rearing centers; the petitioner will not slaughter animals from within the limits of District Unnao; it will construct slaughter house keeping in view the provisions contained in Prevention of Cruelty to Animals (Slaughter House) Rules, 2001; it will have to establish a modern mechanical plant which does not generate any solid waste material; it will have to comply with the provisions of Prevention of Cruelty to Animals Act, 1980 and Animal Husbandry Rules, 2000 framed thereunder. No objection certificate also provided that before operating the slaughter house, the petitioner will have to obtain no objection certificate from the Director, Animal Husbandry, Fire Fighting Department, Ground Water Department; it

will have to obtain a Consent to Establish the unit (CTE) from U.P. Pollution Control Board; it will have to obtain a license under Food Safety and Standards Act, 2006 and Regulations, 2011 before operating the unit; it will have to inform the District Magistrate about the sources of raw material and it will also inform the District Magistrate about the personal hygiene and health safety policy before starting the business; before commencement of industrial operation the petitioner will have to comply with all the provisions mentioned in the no objection certificate and will have to give a written undertaking in this regard. The petitioner will follow the provisions of U.P. Industrial Area Development Act. The plant can be inspected at any time by the District Magistrate, the Additional District Magistrate or any administrative/police officer authorized by them, as also by the prescribed authority of Food and Drug Administration, Fire Fighting Officer, Regional Officer, U.P. Pollution Control Board as well as the Electricity Department. The petitioner will have to abide by all the directions that may be issued in future and in case the petitioner commits any irregularity or violates any of the conditions mentioned in the no objection certificate, the no objection certificate shall be deemed to be cancelled automatically.

5. The no objection certificate mentions that reports were called from various departments on the petitioner's request for grant of a no-objection certificate for establishing a modern animal slaughter house. As per a report dated 03.09.2014 submitted by the Deputy Commissioner, Industries, the District Industries Center Unnao, the U.P. Government granted approval to the petitioner for establishing a slaughtering and meat processing unit of capacity 22,500 tons on 10.07.2014 as an export oriented unit which was expected to fetch foreign exchange worth about 1,200 Crores. As per the Industrial Policies of the Government of India and the Government of Uttar Pradesh, establishment of food processing units was encouraged for investment. A recommendation was accordingly made for grant of no objection certificate to the industry subject to certain conditions.

6. On the basis of the recommendations made by the Executive Engineer, Distribution Division-I, Unnao, Chief Veterinary Officer, Unnao, Fire Fighting Officer, Unnao, Regional Officer, U.P. Pollution Control Board, Unnao, Superintendent of Police, Unnao, Sub Division Magistrate, Unnao and Prescribed Authority, Food Safety and Medicine Administration, Unnao, the State Level Committee issued an Office Memorandum dated 21.10.2016 granting a no objection certificate to the petitioner for establishing a modern slaughter house, keeping in view the interests of enhancement of employment capacity, acquisition of foreign currency and development of regional industrial capacity.
7. The State Level Committee granted the no-objection subject to 12 conditions mentioned therein, including the condition that it will be mandatory for the petitioner to supply meat for local consumption as per the requirement of local bodies; it will have to obtain a no objection certificate within three months before commencement of operation of unit and it will have to abide by all the conditions mentioned in the no objection certificate granted by District Magistrate, Unnao.
8. It is further mentioned in the no objection certificate dated 21.10.2016 issued by the State Level Committee that after grant of this no objection certificate issued by the State Level Committee, an application should be moved for grant of no objection certificate by U.P. Pollution Control Board and the Member Secretary, U.P. Pollution Control Board shall grant a no objection certificate for operating the unit within three months and shall submit a compliance report to the State Level Committee within the aforesaid period.
9. The U.P. Pollution Control Board granted 'consent to establish' (C.T.E.) for the industry by means of an order dated 04.01.2017. The C.T.E. was granted subject to as many as 17 conditions mentioned therein. The C.T.E. mentions the period of its validity to be two years within which the modern slaughter house had to be constructed. The C.T.E. mentions that operation of the unit cannot be commenced till

the consent to operate is obtained from the State Board under the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as 'the Water Act') and the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as 'the Air Act'). The application in this regard should be submitted at least two months before commencement of operations. It is further mentioned in the C.T.E. that in case of violation of any of the conditions the bank guarantee for Rs.10,00,000/- furnished by the petitioner can be forfeited and the C.T.E. shall be cancelled. The Board reserved its right to modify the conditions of C.T.E. or to cancel it. The C.T.E. could also be cancelled in case of failure to submit the compliance report.

10. On 22.02.2018 a Memorandum of Understanding was entered into between the petitioner and the Governor of Uttar Pradesh during U.P. Investors Summit, 2018, wherein the Governor of U.P. agreed to facilitate the petitioner to obtain necessary permissions/registrations/approvals/clearances etc. as per the existing facilities and regulations of the State and also to help the petitioner to avail incentives under various schemes of the State/Central Government, wherever applicable. The Governor agreed to facilitate the petitioner to establish the project in a time bound manner.
11. Meanwhile, the State Government had issued a Government Order dated 07.07.2017 in view of the judgment dated 27.02.2017, passed by the Hon'ble Supreme Court in the case of **Common Cause, A Registered Society Vs. Union of India and others**: Writ Petition (Civil) No. 330 of 2001 and other connected matters. The Government Order incorporated an index of as many as 24 sets of Rules/Regulations/Acts and it states that the earlier Government Order dated 26.11.2014 for operation of animal slaughter house was superseded and the following directions were issued: -

“(1) The Food Safety and Standards Act, 2006 की धारा-89 में दी गयी व्यवस्था- The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect of virtue of any law other than this Act, समस्त प्रचलित

अधिनियमों पर ओवरराइडिंग इफेक्ट रखती है। ऐसी स्थिति में किसी भी कारोबारी को लाइसेन्स निर्गत करने का दायित्व The Food Safety and Standards Act, 2006 की धारा-89 के अन्तर्गत खाद्य सुरक्षा एवं औषधि प्रशासन विभाग का है, जो The Food Safety and Standard (Licensing and Registration of Food Businesses) Regulations, 2011 के 2.1.2 (1)(5) के शेड्यूल-IV के अन्तर्गत हाइजीन एवं सैनेटरी आवश्यकताओं को दृष्टिगत रखते हुए लोकल अथारिटी से अनापत्ति प्रमाण-पत्र प्राप्त करते हुए लाइसेन्स/पंजीकरण निर्गत किये जाने की व्यवस्था है।

(2) The Food Safety and Standards Act, 2006 एवं The Food Safety and Standard (Licensing and Registration of Food Businesses) Regulations, 2011 के 2.1.2(1)(5) के शेड्यूल-IV के अन्तर्गत हाइजीन एवं सैनेटरी आवश्यकताओं को दृष्टिगत रखते हुए लोकल अथारिटी से अनापत्ति प्रमाण-पत्र प्राप्त कर खाद्य सुरक्षा एवं औषधि प्रशासन विभाग के संबंधित अधिकारी द्वारा लाइसेन्स/पंजीकरण निर्गत किये जाने की कार्यवाही की जायेगी।

(3) The Food Safety and Standards Act, 2006 के दिनांक 05.08.2011 से प्रभावी हो जाने के फलस्वरूप उ०प्र० नगर निगम अधिनियम, 1959 एवं नगर पालिका अधिनियम, 1916 में खाद्य लाइसेन्स दिये जाने सम्बन्धी प्राविधान निष्प्रभावी हो गये हैं।

(4) अद्यतन पशुधन गणना को आधार में लेते हुए सम्बन्धित लोकल एथारिटी यदि पशुवधशाला की स्थापना का औचित्य पाती है, तो डी०पी०आर० मा० उच्चतम न्यायालय के निर्देशों व सुसंगत अधिनियमों/नियमों/ आदेशों के अधीन तैयार करायेगी। संबंधित लोकल एथारिटी जनपद के जिलाधिकारी के समक्ष डी०पी०आर० सहित आवेदन-पत्र प्रस्तुत करेगी, जिसे जिलाधिकारी की अध्यक्षता में गठित समिति, जिसमें सदस्य के रूप में सम्बन्धित जनपद के वरिष्ठ पुलिस अधीक्षक / पुलिस अधीक्षक, मुख्य पशु चिकित्साधिकारी, सम्बन्धित स्थानीय निकाय के नगरआयुक्त/ अधिशाषी अधिकारी/ अपर मुख्य अधिकारी एवं उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड के क्षेत्रीय अधिकारी होंगे, मा०सर्वोच्च न्यायालय द्वारा पारित निर्णय में उल्लिखित अधिनियमों/ नियमों को दृष्टिगत रखते हुए परीक्षण करेंगी यदि सम्बन्धित लोकल एथारिटी द्वारा मा०सर्वोच्च न्यायालय के निर्णय में वर्णित दिशा-निर्देशों के अनुसार डी०पी०आर०तैयार की गयी हो, और अद्यतन पशुधन गणना के अनुसार वहाँ पर पशुवधशाला की स्थापना का औचित्य पाया जाता है, तो जिला स्तरीय समिति द्वारा अपनी स्पष्ट संस्तुति सहित प्रस्ताव प्रमुख सचिव, नगर विकास विभाग की अध्यक्षता में गठित राज्य स्तरीय समिति के विचारार्थ प्रस्तुत किया जाय। राज्य स्तरीय समिति द्वारा प्रस्ताव प्राप्त होने पर 03 माह के अन्दर परियोजना की स्वीकृति दिये जाने पर विचार कर यथोचित निर्णय लेगी।

(5) अतः इस सम्बन्ध में मुझे यह कहने का निदेश हुआ कि उपर्युक्त संशोधित दिशा निर्देशों के अनुसार अग्रिम कार्यवाही करने का कष्ट करें।

भवदीय
कुमार कमलेश
प्रमुख सचिव”

12. In furtherance of the C.T.E. granted to the petitioner on 04.01.2017, it established a modern animal slaughter house and on 12.06.2019, it submitted an application to the U.P. Pollution Control Board for grant of ‘consent to operate’ (CTO) under Section 25 (1) (b) and 26 of the Water Act and Section 21 read with Section 22 of the Air Act. The application was rejected by means of an order dated 06.11.2019 on the ground that the petitioner had not submitted the required clarification/ information regarding compliance of 24 points compendium mentioned in the Government Order dated 07.07.2017.

13. On 06.06.2020 the petitioner again applied for grant of C.T.O. and the U.P. Pollution Control Board again rejected the request vide order dated 11.07.2020 on the ground that the petitioner was required to submit a revalidated no objection certificate from different departments as well as from the State Level Committee as per the Government Order dated 07.07.2017.
14. The petitioner challenged the rejection order dated 11.07.2020 by filing Writ-C No.4368 of 2022: M/s Al Haq Food Pvt. Ltd. Vs. State of U.P. and others, which was dismissed by means of an order dated 31.03.2023 passed by a coordinate Bench of this Court.
15. Thereafter the petitioner submitted an application dated 02.06.2023 to the District Magistrate, Unnao stating that it had complied with all the requirements for establishment of a modern animal slaughter house as mentioned in the 24 points compendium and even the order dated 11.07.2020 does not state that the petitioner had not complied with any of the provisions mentioned in the 24 points compendium. The approvals/consents/no objection certificates under the Food Safety and Standard Act, 2006 mentioned in Clauses 4.1, 4.2 and 4.3 of the Government Order dated 07.07.2017 are granted only after issuance of the consent to operate by the U.P. Pollution Control Board and the petitioner had already submitted an application for issuance of a no-objection certificate under the Food Safety and Standards Act, 2006. Regarding Clause 4.4 of the Government Order dated 07.07.2017 the petitioner stated that live stock census was conducted in the years 2012 and 2019 and the order dated 06.05.2020 passed by the Chief Veterinary Officer shows that the number of buffaloes in the State of U.P. had increased by 6,56,492. The District Magistrate had issued the no objection certificate dated 21.05.2015 and the State Level Committee had issued a no-objection certificate dated 21.10.2016 after completion of all the requisite formalities. The petitioner had submitted its D.P.R. (detailed project report) in the Investors Summit organized by the State Government as per the intention of the State Government to give encouragement to its industrial policy and thereafter a memorandum of understanding (MOU) was executed

between the State Government and the petitioner. After obtaining no objection certificates from the District Level Committee, State Level Committee, U.P. Pollution Control Board and various other departments for establishment of a modern slaughter house, the petitioner has invested ₹200 Crores for establishing the industry. The petitioner requested for revalidation of the no objection certificate dated 21.05.2015 issued by the District Magistrate, Unnao and to refer the matter to the State Level Committee for revalidation of the no objection certificate dated 21.10.2016.

16. On 19.07.2023, the State Government wrote a letter to the District Magistrate, Unnao stating that a detailed scrutiny be carried out in light of the terms/conditions of the 24 points compendium mentioned in the Government Order dated 07.07.2017, the earlier no objection certificate dated 21.05.2015 granted to the petitioner be revalidated and a report/proposal be sent to the Government as early as possible, along with a recommendation of the District Level Committee.
17. On 03.07.2023, the Deputy Commissioner, Industries, District Industry Promotion and Entrepreneurship Development Centre, Unnao sent a letter to (i) the Chief Veterinary Officer, Unnao, (ii) Assistant Regional Transport Officer, Unnao, (iii) Prescribed Authority/Assistant Commissioner, Food Safety and Drug Administration Unnao and (iv) Regional Officer, U.P. Pollution Control Board, Unnao enclosing therewith a copy of the aforesaid letter dated 19.07.2023 sent by the State Government and directing them to submit a report regarding the following points: -

<i>Sl. No.</i>	<i>Department/Name of the Officer</i>	<i>Point numbers of Compendium</i>
1.	<i>Chief Animal Medical Officer</i>	<i>1, 3, 4, 5, 6, 12, 21, 22, 23</i>
2.	<i>Assistant Divisional Transport Officer</i>	<i>2, 7, 8</i>
3.	<i>Designated Officer / Assistant Commissioner Food Safety and Drug Administration Department</i>	<i>9, 10, 11</i>
4.	<i>Regional Officer, UP Pollution Control Board, Unnao</i>	<i>13, 14, 15, 16, 17, 18, 19, 20, 24</i>

- 18.** The Deputy Commissioner, Industries sent a written note to the Additional District Magistrate (Finance and Revenue), Unnao stating that through a letter dated 24.06.2023 information was obtained from the Regional Officer, U.P. Pollution Control Board, Unnao as to whether a new D.P.R. was required for revalidation of the no objection certificate dated 21.05.2015. The Regional Officer informed through a letter dated 07.07.2023 that a new D.P.R. was not required for revalidation of the no objection certificate dated 21.05.2015 and it provided a copy of the D.P.R. already submitted by the petitioner. It was proposed to obtain point wise reports from the departments as against the points mentioned against them in the table given above and thereafter the reports be placed before the District Level Committee.
- 19.** It appears that the District Magistrate wrote letters dated 20.11.2023 and 16.11.2023 regarding revalidation of the no objection certificate dated 21.05.2015 issued to the petitioner whereupon a spot verification was carried out and point wise reports were submitted by the concerned departments as per the 24 points compendium mentioned in the Government Order dated 07.07.2017. The findings based on the reports of the concerned departments show that the petitioner had already taken necessary steps which could be taken till that stage and it will comply with the other provisions relating to operation of the industry after commencement of operation. The report submitted by the Committee consisting of Assistant Commissioner (Food)-II, Food Safety and Drug Administration, Unnao, Assistant Regional Transport Officer, Unnao, Regional Officer, U.P. Pollution Control Board, Unnao and Chief Veterinary Officer, Unnao mentions that the unit has completed the basic requirements for establishment of industry on the basis of the 24 points compendium mentioned in the Government Order dated 07.07.2017.
- 20.** On 27.02.2024, the District Magistrate, Unnao wrote a letter addressed to (i) the Chief Veterinary Officer, Unnao, (ii) Regional

Officer, U.P. Pollution Control Board, Unnao, (iii) Assistant Commissioner (Food) Food Safety and Drug Administration, Unnao and (iv) Assistant Regional Transport Officer, Unnao stating that as per the reports submitted by the aforesaid authorities in respect of revalidation of the no objection certificate dated 21.05.2015 granted to the petitioner, a decision regarding the following points of the compendium would be possible only after trial run of the industry whereas the report submitted under the joint signatures of the aforesaid officers does not make any mention of trial run of industry: -

“1. मुख्य पशु चिकित्साधिकारी उन्नाव की आख्या दिनांक 24.08.2023 द्वारा अवगत कराया गया है कि उद्योग द्वारा 24 बिन्दु कम्पेडियम के बिन्दु संख्या- 1, 23 का अनुपालन सुनिश्चित कर लिया गया है तथा शेष बिन्दु संख्या-1, 4, 5, 6, 12, 21, 22 का अनुपालन ट्रायल संचालन के उपरान्त ही किया जाना सम्भव होगा।

2 अभिहित अधिकारी / सहायक आयुक्त खाद्य सुरक्षा एवं औषधि प्रशासन विभाग उन्नाव- दिनांक रहित आख्या प्रस्तुत अवगत कराया गया है कि 24 बिन्दु कम्पेडियम के बिन्दुसंख्या-9, 10, 11 के अनुपालन का परीक्षण/ जाँच ट्रायल संचालन के उपरान्त ही किया जाना सम्भव होगा।

3. सहायक सम्भागीय परिवहन अधिकारी उन्नाव- आख्या दिनांक 23.08.2023 द्वारा अवगत कराया गया है कि 24 बिन्दु कम्पेडियम के बिन्दु संख्या- 2, 7 व 8 का परीक्षण / अनुपालन संचालन के उपरान्त ही किया जाना सम्भव होगा।

4. क्षेत्रीय अधिकारी उ०प्र०प्रदूषण नियंत्रण बोर्ड उन्नाव - आख्या दिनांक 14.08.2023 द्वारा अवगत कराया गया है कि उद्योग द्वारा 24 बिन्दु कम्पेडियम के बिन्दुसंख्या-13, 16, 17, 18, 19, 21, 22 व 23 का अनुपालन कर लिया गया है तथा शेष बिन्दुसंख्या-14, 15, 20 व 24 की जाँच/ परीक्षण ट्रायल संचालन के उपरान्त ही किया जाना सम्भव होगा।”

The District Magistrate further wrote that: -

(i) The report dated 24.08.2024 submitted by the Chief Veterinary Officer, Unnao states that the petitioner has complied with points no.1 and 23 of 24 points compendium and points no.1, 4, 5, 6, 12, 21, 22 can be complied with only after trial run;

(ii) Designated Officer/Assistant Commissioner Food Safety and Drug Administration Department Unnao- Undated report submitted it has been informed that testing/checking of compliance of points numbers 9, 10, 11 of 24 points compendium will be possible only after conducting the trial run.

(iii) Assistant Divisional Transport Officer Unnao- Report dated 23.08.2023 has informed that testing/compliance of point number-2, 7 and 8 of 24 points compendium will be possible only after conducting the trial run.

(iv) The Regional Officer, Uttar Pradesh Pollution Control Board, Unnao - It has been informed by the report dated

14.08.2023 that the industry has complied with points number 13, 16, 17, 18, 19, 21, 22 and 23 of the 24 points compendium and the remaining points number 14, 15, 20 and 24 can be checked / tested only after conducting the trial run.”

21. The letter directed the aforesaid officers to clarify as to why the report does not make any mention of trial run of the industry and if permission for trial run is to be granted by the government/district level, then the authority should inform the rules/government orders under which the industry has to be granted permission for trial run and the copy of reports/government order should be enclosed with the report.
22. On 18.04.2024 the petitioner applied to the Member Secretary, U.P. Pollution Control Board for grant of Consolidated Consent and Authorization under Section 25/26 of Water Act and Section 21 of Air Act. On 05.08.2024, the U.P. Pollution Control Board granted consolidated consent to operate and authorization (C.C.A.) under Section 25 of the Water Act and Section 21 of the Air Act and authorization under Rule 6 (2) of the Hazardous and other Wastes (Management and Trans-boundary Movement) Rules, 2016 notified under the Environment Protection Act, 1986 to the petitioner for the period from 05.08.2024 to 19.08.2024.
23. The C.C.A. was granted subject to certain specific conditions mentioned therein, including the following: -

Specific Conditions:-

*This C.T.O. is granted to conduct only trial run of the plant for two weeks and **this trial run is based upon revalidation report of 24 compendium in compliance of letter of Nagar Vikas Anubhag-8, Letter no. 3710/No-8-2017-2CA/12TC Dated 07.07.2017 and in continuation to the NOC granted by district magistrate, Unnao on dated 21.05.2015 submitted by district level committee Unnao.** The unit shall comply all order issued by Government India and Government of U.P. from time to time. The unit shall comply all the direction issued by Hon'ble Supreme Court, Hon'ble High Court, Hon'ble NGT, CPCB and UPPCB.*

24. On 13.08.2024 the petitioner sent an e-mail to the Regional Officer, U.P. Pollution Control Board stating that the trial run had been

successfully commenced on 12.08.2024 and requesting the Regional Officer to grant C.T.O. under the Water Act and the Air Act for final production.

25. After inspection of trial run of the petitioner's unit, the U.P. Pollution Control Board granted a C.C.A. to the petitioner vide order dated 23.08.2024 which was valid for the period from 23.08.2024 to 31.12.2028. The C.C.A. was granted subject to 12 general conditions and 27 specific conditions mentioned in the order.
26. Merely after about two months since grant of C.C.A. dated 23.08.2024, the Chief Environment Officer, Circle-5, U.P. Pollution Control Board wrote a letter dated 25.10.2024 to the petitioner stating that the petitioner had not submitted a revalidated no objection certificate from the District Level Committee and the State Level Committee for '**establishment of the animal slaughter house**' and asking the petitioner to show cause as to why the C.C.A. dated 23.08.2024 be not revoked with immediate effect.
27. On 28.10.2024 the petitioner wrote letters to the Principal Secretary to the Chief Minister, Government of Uttar Pradesh and the Chief Environment Officer, U.P. Pollution Control Board stating that in pursuance of the C.C.A. dated 23.08.2024 granted by the U.P. Pollution Control Board, it had made arrangements of export working capital of ₹ 50 Crores with State Bank of India and had given employment enrollment to 1,000 workers of the State. It had secured export orders worth 40 Million \$ (approximately ₹ 350 Crores), besides making investments to the tune of ₹ 100 Crores in plant set up. Thereafter it had received the notice dated 25.10.2024. The petitioner requested the Government to facilitate 'Ease of Doing Business' in the State to the industry and to keep alive the investment sentiment of all stake holders and encourage the petitioner's initiative to contribute to the foreign currency inflow to the State as well as direct and indirect employment generation.
28. On 14.11.2024, the Chief Environment Officer, U.P. Pollution Control Board passed the impugned order revoking the C.T.O. dated 23.08.2024 granted to the petitioner. The order mentions that the

petitioner has not obtained a revalidated no objection certificate in terms of the Government Order dated 07.07.2017 and in compliance of the order dated 31.05.2023 passed by this Court in Writ-C No.4368 of 2022. The petitioner had submitted a report of the District Level Committee, which did not include members of the departments mentioned in the Government Order dated 07.07.2017. Thus, the petitioner had made a false statement that the report of the District Level Committee is a revalidated no objection certificate.

29. On 12.12.2024 an interim order was passed in this case whereby the impugned order dated 14.11.2024 cancelling the C.C.A. was kept in abeyance.
30. The Regional Officer, U.P. Pollution Control Board, Unnao has filed a counter affidavit stating that the judgment dated 31.05.2023 passed by this Court in Writ-C No.4368 of 2022, in which this Court has held that it was mandatory for the petitioner to comply with all the terms of the Government Order dated 07.07.2017 - including obtaining no objection certificates from the District Magistrate, Unnao, the State Level Committee and the U.P. Pollution Control Board. This judgment operates as *res-judicata*.
31. A copy of the inspection report dated 22.08.2024 submitted by a 3 members' committee consisting of Assistant Scientific Officer, Assistant Environment Officer and Regional Officer, U.P. Pollution Control Board, which was sent to the Chief Environment Officer, has been annexed with the counter affidavit. It states that a physical inspection of all the units installed in the industry was carried out on 18.08.2024. No production activity was being conducted at the time of the inspection. All plant and the machinery was found to be in order. The petitioner's representative present at the time of inspection himself stated that the industry was non-functional for a long period. Minor repairs necessitated for this reason had been completed. The inspection report states that grant of final C.T.O. may be considered in view of the facts stated in the report.
32. A copy of a letter dated 19.11.2024 sent by the Regional Officer, U.P. Pollution Control Board to the Chief Environmental Officer (Circle-5)

has also been annexed with the counter affidavit which states that inspection of the industry was carried out by the authorized officer of the Regional Office on 19.11.2024, during which no evidence of production in the industry was found and the industry was closed.

- 33.** The petitioner has filed a rejoinder affidavit inter alia stating that the 24 points compendium is not a new norm which has been introduced by means of the Government Order dated 07.07.2017. The Rules and Regulations mentioned in the compendium are pre-existing Rules which are to be complied with by any industry even otherwise. The Government Order dated 07.07.2017 has merely compiled the pre-existing laws. It is nobody's case that the petitioner has not complied with any particular provision of the 24 points compendium mentioned in the Government Order dated 07.07.2017. The respondents have failed to point out any provision of law under which they have the authority to revoke the C.C.A. granted to the petitioner when there is no allegation of violation of any of the conditions mentioned in it. The petitioner has further stated that it was granted C.T.E. on 04.01.2017 and thereafter it established the industry and applied for grant of C.T.O. for the first time on 03.01.2019 i.e. within a period of two years. Its application for grant of C.T.O. was rejected by means of orders dated 03.06.2019, 09.03.2020 and 11.07.2020 and none of the aforesaid orders mentions violation of any of the terms and conditions of the C.T.E. and no such allegation is there even in the impugned order dated 14.11.2014.
- 34.** The petitioner has filed a supplementary affidavit stating that it has been granted the necessary approvals such as (i) CTO/C.C.A. by UPPCB; (ii) ISO-22000:2018, International Standard of providing safe products and service under food safety management system (FSMS); (iii) HACCP of Plant / Hazard Analysis and Critical Control Point in compliance with Food Safety Management System-FSMS; (iv) NOC from Central Ground Water Authority under the Ministry of Jalshakti Govt. of U.P.; (v) License U/s 6 of the Factories Act 1948 from the Office of Director of Factories, Uttar Pradesh, under the

Ministry of labour and (vi) FSSAI License Under FSS Act, 2006 from the Central Govt., New Delhi.

- 35.** The petitioner has also stated in the supplementary affidavit that it has established an export oriented industry which is mandatorily required to be registered with Agricultural and Processed Food Products Export Development Authority (APEDA). The inspection of a fully operational plant by the officers of APEDA is necessary for registration of the petitioner with the aforesaid authority. After passing of the interim order dated 12.12.2024, APEDA wrote a letter dated 03.01.2025 informing the petitioner that its officials will conduct inspection of the petitioner's industry shortly. A Government Order dated 13.01.2016 provides that a Government Veterinary Doctor from the Department of Animal Husbandry has to be there on duty in the industry for examining health of the animals to be slaughtered for the purpose of export of meat. The Animal Husbandry Department had nominated a Veterinary Doctor to perform the aforesaid duty at the petitioner's industry vide order dated 27.12.2024 but this order was cancelled by means of another order dated 31.12.2024. The petitioner could not get registered with APEDA for want of attachment of a Government Veterinary Doctor. The petitioner stated that the opposite parties are making all efforts to create obstacles in operation of the petitioner's industry, which is an export oriented industry. The petitioner has further stated that as many as 8 industries mentioned in para 19 of the supplement affidavit dated 08.11.2024 have been granted regular C.T.O. without asking for any revalidation of no objection certificates from the District Level Committee or the State Level Committee and copies of C.T.O. granted to those industries have been annexed with the supplementary affidavit.
- 36.** It has further been stated in the supplementary affidavit that a similar show cause notice dated 15.07.2024 was issued to another industry viz. M/s Marya Frozen Agro Food Products Pvt. Ltd. and the industry was sealed. It filed Writ-C No.6643 of 2024. During pendency of the Writ Petition, U.P. Pollution Control Board withdrew the show cause

notice by means of an order dated 02.09.2024 without any revalidated no objection certificate having been submitted by the aforesaid industry and the Writ Petition was disposed of by means of an order dated 04.09.2024 after recording the aforesaid development.

Submissions of the learned Counsel for the Petitioner: -

37. Dr. L.P. Misra, the learned counsel for the petitioner has submitted that the order dated 24.11.2024 has been passed without jurisdiction as the C.C.A. was granted to the petitioner under Section 25 of Water Act and Section 21 of Air Act and Rule 7 of Hazardous and other Wastes (Management and Trans-boundary Movement) Rules, 2016. The aforesaid Act and the Rules do not confer any authority on the Chief Environment Officer to revoke the C.C.A. unless there is any allegation of violation of any of the conditions imposed in the C.C.A.
38. The learned counsel for the petitioner next submitted that there is no requirement for obtaining a revalidated no objection certificate from the District Magistrate or from the State Level Committee for obtaining a C.T.O. as per the Government Order dated 07.07.2017. The Government Order dated 07.07.2017 contains provisions for the purpose of establishment of a new slaughter house and for approval of D.P.R. The U.P. Pollution Control Board itself has stated that there is no requirement of submission of a new D.P.R. The Government Order dated 07.07.2017 merely makes it mandatory to comply with the norms prescribed by the 24 points compendium but it does not provide for revalidation of no objection certificate issued by the District Level Committee or the State Level Committee. Several of the licenses/registrations under 24 points compendium are issued by the concerned authorities after issuance of the C.C.A. and the C.C.A. cannot be revoked unless there was a specific provision in the Government Order dated 07.07.2017 authorising the U.P. Pollution Control Board to revoke the C.C.A. for want of a revalidated no objection certificate.
39. The learned counsel for the petitioner next submitted that the judgment dated 31.05.2023, passed by this Court in Writ-C No.4368 of 2022 merely directs the petitioner to comply with the provisions of

the Government Order dated 07.07.2017. The petitioner's submission is recorded in the aforesaid judgment dated 31.05.2023 that the applicability of the 24 points compendium is to be categorized mainly under three heads, namely - (i) pre-establishment (ii) post establishment and (iii) operational stage. The petitioner has completed the pre establishment and post-establishment conditions and operational conditions can be complied with only after the industry commences its operations after grant of C.C.A. by the U.P. Pollution Control Board. The petitioner's unit had already been established prior to 2017 and the Government Order dated 07.07.2017 does not operate retrospectively. These points have not been decided in the judgment dated 31.05.2023.

40. The learned counsel for the petitioner has next submitted that the petitioner had applied for revalidation of the no objection certificate under compulsive circumstances, as the U.P. Pollution Control Board was not granting C.C.A. although the petitioner had established the industry under the C.T.E. granted to it on 04.01.2017 and it had made huge investments in establishing the industry. Mere submission of an application for revalidation of the no objection certificate in these compelling circumstances would not operate as an estoppel against the petitioner for seeking a C.C.A. once the norms of the 24 points compendium stand met with. The revocation of C.C.A. for want of a revalidated no objection certificate after establishment of the industry would amount to turning the clock back and taking away an accrued right of the petitioner by means of an executive order, which is not permissible in view of the law laid down by the Hon'ble Supreme Court in the case of **Canara Bank and another Vs. M. Mahesh Kumar**: (2015) 7 SCC 412.
41. The learned counsel for the petitioner has also submitted that the U.P. Pollution Control Board has issued C.C.A. to numerous other industries without asking for a revalidated no objection certificate and it has treated the petitioner with hostile discrimination in revoking the C.C.A. granted to the petitioner for the reason that the petitioner had not submitted a revalidated no objection certificate.

42. The learned counsel for the petitioner has further submitted that the responsibility for ensuring compliance of 24 points compendium lies on the State Level Committee and not on the U.P. State Pollution Control Board. Therefore, the U.P. Pollution Control Board cannot revoke the C.C.A. for the alleged want of requirement of 24 points compendium.
43. The next point submitted by the learned counsel for the petitioner is that once the U.P. Pollution Control Board has granted a C.C.A. to the petitioner and the revalidation of no objection certificate could not be done without the C.C.A. having been granted, it was not open for the U.P. Pollution Control Board to revoke the C.C.A. granted to the petitioner as the law does not compel a person to do something which is impossible (*lex non cogit ad impossibilia*).

Submissions of the learned Counsel for the Respondents: -

44. Per contra, Sri S. C. Mishra, the learned Senior Advocate appearing for the U.P. Pollution Control Board, has submitted that after grant of the no objection certificate dated 21.05.2015 to the petitioner, the Government Order dated 07.07.2017 was issued through which the earlier Government Order dated 26.11.2014 was superseded and a list of 24 laws was given in the Government Order for establishment of slaughter house/running of meat shops. Clause 4 (4) of the aforesaid Government Order provides that if the concerned local authority deems establishment of an animal slaughter house to be proper keeping in view the up to date animal census, it will get a D.P.R. prepared under the directions of the Hon'ble Supreme Court and the relevant Acts/Rules/Orders. The local authority shall submit an application to the District Magistrate along with the D.P.R., which will be examined by a Committee constituted under the chairmanship of the District Magistrate and consisting of Senior Superintendent of Police / Superintendent of Police / Chief Veterinary Officer / Commissioner / Executive Officer of the concerned local authority and Regional Officer of the U.P. Pollution Control Board as its members. If the Committee finds that the D.P.R. has been prepared in accordance with the directions issued by the Hon'ble Supreme Court

and it would be proper to establish an animal slaughter house as per the latest animal census, it will submit its proposal along with a clear recommendation to the State Level Committee constituted under the Chairmanship of the Principal Secretary, Urban Development Department. The State Level Committee shall take appropriate decision for sanction of the project within three months from the receipt of proposal.

45. Sri S.C. Mishra has submitted that the report which is being claimed by the petitioner as revalidation of the earlier no objection certificate, has been submitted by a committee consisting of Assistant Commissioner (Food), Assistant Regional Transport Officer, Regional Officer, U.P. Pollution Control Board and Chief Veterinary Officer. The Superintendent of Police and the Executive Officer of local body are not members of this committee and, therefore, this report does not fulfill the requirements of Clause 4 (4) of the Government Order dated 07.07.2017.
46. The learned Counsel for the Pollution Control Board has submitted that the question whether the petitioner requires a revalidated no objection certificate or not, is not open to be examined by this Court as a coordinate bench of this Court has already held in the judgment dated 31.05.2023 passed by in Writ-C No.4368 of 2022, that it was mandatory for the petitioner to comply with all the terms of the Government Order dated 07.07.2017 including NOC for 'consent to operate' from the District Magistrate, Unnao, State Level Committee and U.P. Pollution Control Board. He has submitted that this Court has no power to review the judgment dated 31.05.2013 rendered by a coordinate bench and the findings recorded in the aforesaid judgment and the same are binding on this bench.
47. Sri S.C. Mishra has next submitted that the question of retrospective operation of the Government Order dated 07.07.2017 does not arise as it has superseded the earlier Government Order dated 26.11.2014. Thus, the only Government Order in existence is the Government Order dated 07.07.2017 and its provisions have to be adhered to by the petitioner.

48. In response to a specific question put by the Court as to whether the consent to establish an industry granted to the petitioner and all other industries came to an end upon issuance of the Government Order dated 07.07.2017, the learned counsel for the opposite parties stated that notices were sent to all the industries but he did not state as to whether the C.T.O. granted to any other industry has actually been cancelled.
49. The learned counsel for the opposite parties next submitted that the petitioner had itself submitted an application dated 02.06.2023 to the District Magistrate requesting for revalidation of the no objection certificate dated 21.05.2015 and he is now estopped from challenging the requirement of submission of a revalidated no objection certificate. The report on the aforesaid letter of the petitioner was submitted by a four member committee which did not include the Superintendent of Police and the Executive Officer of the local body and this report did not make any mention about trial operation of the industry.
50. Sri S. C. Mishra has drawn attention of the Court to the letter dated 27.02.2024 written by the District Magistrate to the Chief Veterinary Officer, Assistant Commissioner, Food Safety and Drug Administration, Assistant Regional Transport Officer and Regional Officer, U.P. Pollution Control Board, stating that the report submitted by the committee consisting of the aforesaid officers makes no mention about the trial run of the industry whereas compliance of various points of the 24 points compendium can only be examined after trial run of the industry. He has submitted that the aforesaid letter indicates that the report submitted by the four member committee does not certify compliance of the provisions of 24 points compendium.
51. Regarding the submission of the learned counsel for the petitioner based on the principle of estoppel, the learned counsel for the U.P. Pollution Control Board submitted that the C.C.A. was wrongly granted to the petitioner without submission of a revalidated no objection certificate and, therefore, the Chief Environmental Officer

and the Regional Officer, U.P. Pollution Control Board, who were responsible for granting the C.C.A., have been placed under suspension and disciplinary proceedings have been instituted against them. He has submitted that the action of the aforesaid officers in wrongly issuing C.C.A. to the petitioner without submission of a revalidated no objection certificate would not create any estoppel against the U.P. Pollution Control Board.

52. In reply to the petitioner's contention that the C.T.O. has been granted to 8 other units without submission of a revalidated no objection certificate, Sri S.C. Mishra has stated that those eight units are running units whereas the petitioner's unit has not become operational.
53. Written notes of their submissions have also been filed by the learned counsel for the parties.

Analysis of the Submissions: -

54. Before proceeding to examine the rival submissions advanced by the learned counsel for the parties, it will be appropriate to understand the provisions of the Government Order dated 07.07.2017, which has been issued in compliance of the order dated 17.02.2017 passed by the Hon'ble the Supreme Court in Writ Petition (Civil) No.330 of 2001 and other connected matters. The aforesaid order refers to previous orders dated 26.09.2016 and 28.10.2016. The order dated 26.09.2016 reads as under: -

"We have heard learned counsel for the parties and are of the view that it would be more appropriate if learned counsel, i.e., Mr. Anand Grover, learned senior counsel, Mr. Vijay Panjwani and Mr. Pranab Kumar Mullick, learned counsel have a meeting with learned Additional Solicitor General within the next week or so and together prepare an index of the various standards, rules and statutes governing the issue before us with regard to the slaughtering of animals and management of slaughter houses. Index will be prepared within a period of four weeks. The purpose of preparing the index is eventually to prepare a compendium based on that index which can then be circulated to all concerned so that the management of the slaughtering of animals and slaughter houses will be done more efficiently. List the matters on 28th October, 2016."

55. The order dated 28.10.2016 reads as follows: -

“Mr. Vijay Panjwani, learned counsel for CPCB says that he was not called for the meeting by the learned Additional Solicitor General. Mr. Anand Grover, learned senior counsel says that he has suggested some additions to the compendium. Mr. Pranab Kumar Mullick, learned counsel for the petitioner says that he will give certain additional documents to the learned Additional Solicitor General.

We hope that a final decision on the compendium will be taken within two weeks.

List immediately thereafter.”

- 56.** The order dated 17.02.2017, passed by the Hon’ble Supreme Court reads as follows: -

“Pursuant to our orders dated 26.09.2016 and 28.10.2016, a compendium of the Indian Standards has been prepared along with all relevant material in consultation with all the stake holders.

The Union of India is directed to print the compendium in sufficient numbers and circulate it to all the State Governments and Union Territories for compliance. The Union of India will comply with our orders within six weeks from today.

In the event there is non-compliance with the Indian Standards, other rules and regulations, the petitioners are entitled to approach the concerned District Collector or the judicial authorities, as the case may be in a given specific instance.

Learned counsel for the petitioner in W.P. (C) No.44 of 2004 seeks leave to withdraw the petition.

W. P. (C) No.44 of 2004 is dismissed as withdrawn.

W.P. (C) No.330 of 2001 is disposed of.

Pending applications, if any, are disposed of.”

- 57.** A perusal of the aforesaid orders makes it clear that the Hon’ble Supreme Court had directed preparation of an index of various standards, rules and statutes governing the issue with regard to slaughtering of animals and management of slaughter houses. The purpose of preparation of the index was to prepare a compendium which can be circulated to all the concerned so that the management of slaughter houses may be done more efficiently. The compendium was prepared accordingly and the Hon’ble Supreme Court directed the Union of India to print the compendium in sufficient numbers and

circulate it to all the State Governments and Union Territories for compliance.

58. Clause 4.4 of the Government Order dated 07.07.2017, reliance whereupon has been placed by the learned counsel for U.P. Pollution Control Board and its translation in English is as follows: -

<p>अद्यतन पशुधन गणना को आधार में लेते हुए सम्बन्धित लोकल एथारिटी यदि पशुवधशाला की स्थापना का औचित्य पाती है, तो डी०पी०आर० मा० उच्चतम न्यायालय के निर्देशों व सुसंगत अधिनियमों/नियमों/ आदेशों के अधीन तैयार करायेगी। संबंधित लोकल एथारिटी जनपद के जिलाधिकारी के समक्ष डी०पी०आर० सहित आवेदन-पत्र प्रस्तुत करेगी, जिसे जिलाधिकारी की अध्यक्षता में गठित समिति, जिसमें सदस्य के रूप में सम्बन्धित जनपद के वरिष्ठ पुलिस अधीक्षक/ पुलिस अधीक्षक, मुख्य पशु चिकित्साधिकारी, सम्बन्धित स्थानीय निकाय के नगर आयुक्त/ अधिशाषी अधिकारी/ अपर मुख्य अधिकारी एवं उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड के क्षेत्रीय अधिकारी होंगे, मा० सर्वोच्च न्यायालय द्वारा पारित निर्णय में उल्लिखित अधिनियमों/ नियमों को दृष्टिगत रखते हुए परीक्षण करेंगी यदि सम्बन्धित लोकल एथारिटी द्वारा मा०सर्वोच्च न्यायालय के निर्णय में वर्णित दिशा-निर्देशों के अनुसार डी०पी०आर० तैयार की गयी हो, और अद्यतन पशुधन गणना के अनुसार वहाँ पर पशुवधशाला की स्थापना का औचित्य पाया जाता है, तो जिलास्तरीय समिति द्वारा अपनी स्पष्ट संस्तुति सहित प्रस्ताव प्रमुख सचिव, नगर विकास विभाग की अध्यक्षता में गठित राज्य स्तरीय समिति के विचारार्थ प्रस्तुत किया जाय। राज्य स्तरीय समिति द्वारा प्रस्ताव प्राप्त होने पर 03 माह के अन्दर परियोजना की स्वीकृति दिये जाने पर विचार कर यथोचित निर्णय लेगी।</p>	<p>Taking the updated livestock census as the basis, if the concerned local authority finds establishment of a slaughter house to be proper, it will get a D.P.R. prepared as per the directions of the Hon'ble Supreme Court and the relevant Acts/Rules/Orders, which will be examined by a Committee presided by the District Magistrate and consisting of Senior Superintendent of Police/ Superintendent of Police, Chief Veterinary Officer, Municipal Commissioner / Executive Officer / Additional Chief Officer of the concerned local body and Regional Officer of Uttar Pradesh Pollution Control Board as its members, keeping in view the Acts / Rules mentioned in the order passed by the Hon'ble Supreme Court. If the concerned local authority has prepared the D.P.R. as per the guidelines given in the order of the Supreme Court, and according to the updated livestock census, the establishment of an animal slaughter house is found to be proper, then the District Level Committee will submit its proposal alongwith its clear recommendation for consideration of the State Level Committee constituted under the chairmanship of the Principal Secretary, Urban Development. The State Level Committee shall consider grant of approval to the project and take an appropriate decision within 03 months from the receipt of the proposal.</p>
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59. The important points of Clause 4.4 of the Government Order dated 07.07.2017 are as follows: -

- (i) Taking the updated livestock census as the basis, if the concerned local authority finds establishment of a slaughter house to be proper, it has to get the D.P.R. prepared.
 - (ii) The D.P.R. will be examined by a Committee presided by the District Magistrate, keeping in view the Acts / Rules mentioned in the order passed by the Hon'ble Supreme Court.
 - (iii) The District Level Committee will submit its proposal alongwith its clear recommendation for consideration of the State Level Committee if the concerned local authority has prepared the D.P.R. as per the guidelines given in the order of the Supreme Court.
 - (iv) The State Level Committee shall consider grant of approval to the project and take an appropriate decision within 03 months from the receipt of the proposal.
- 60.** Clause 4.4 of the Government Order dated 07.07.2017 deals with approval of D.P.R. for “**establishment of a slaughter house**”. The petitioner had already been granted a no objection certificate to establish a slaughter house way back on 21.05.2015 after approval of the D.P.R. and it has already been granted C.T.E. to establish a slaughter by means of an order dated 04.01.2017, i.e. prior to issuance of the G.O. dated 07.07.2017.
- 61.** Secondly, the proposal for establishment of an animal slaughter house has to be initiated by the local authority by submitting a D.P.R., and it has not to be done by the person who intends to establish the slaughter house. Therefore, as per Clause 4.4 of the Government Order dated 07.07.2017, the petitioner was not obliged to submit a new D.P.R.
- 62.** Thirdly, when the petitioner's application for grant of C.T.O. had repetitively been rejected on the ground that it was required to submit a revalidated no objection certificate from different departments as well as from the State Level Committee as per the Government Order dated 07.07.2017 and Writ-C No.4368 of 2022 filed by it was also dismissed by means of an order dated 31.05.2023, the petitioner had submitted an application dated 02.06.2023 requesting the District Magistrate for revalidation of the no objection certificate dated

21.05.2015. On 19.07.2023, the State Government wrote a letter to the District Magistrate stating that a detailed scrutiny be carried out in light of the terms/conditions of the 24 points compendium, the earlier no objection certificate dated 21.05.2015 granted to the petitioner be revalidated and a report/proposal be sent to the Government as early as possible, along with a recommendation of the District Level Committee. The Deputy Commissioner, Industries had written a note to the Additional District Magistrate (Finance and Revenue), Unnao stating that through a letter dated 24.06.2023 information was obtained from the Regional Officer, U.P. Pollution Control Board, Unnao as to whether a new D.P.R. was required for revalidation of the no objection certificate dated 21.05.2015. The Regional Officer informed through a letter dated 07.07.2023 that a new D.P.R. was not required for revalidation of the no objection certificate dated 21.05.2015 and it provided a copy of the D.P.R. already submitted by the petitioner, which had already been approved. When the Regional Officer of U. P. Pollution Control Board had written in the letter dated 07.07.2023 that a new D.P.R. was not required, there was no occasion for approval of a new D.P.R. as per Clause 4.4 of the Government Order dated 07.07.2017 of which the operation was prospective.

- 63.** The District Magistrate wrote letters dated 20.11.2023 and 16.11.2023 regarding revalidation of the no objection certificate dated 21.05.2015 issued to the petitioner whereupon a spot verification was carried out and point wise reports were submitted by the concerned departments as per the 24 points compendium mentioned in the Government Order dated 07.07.2017. In the letter dated 27.02.2024 addressed to (i) the Chief Veterinary Officer, Unnao, (ii) Regional Officer, U.P. Pollution Control Board, Unnao, (iii) Assistant Commissioner (Food) Food Safety and Drug Administration, Unnao and (iv) Assistant Regional Transport Officer, Unnao, the District Magistrate, Unnao has himself written that as per the reports submitted by the aforesaid authorities in respect of revalidation of the no objection certificate dated 21.05.2015 granted to the petitioner, a decision regarding certain points of the compendium would be possible only after trial

run of the industry. Thus admittedly, all the requirements of the 24 point compendium cannot be fulfilled at the time of issuance of the no objection certificate. The essential norms for CTE once fulfilled, stand as a formation based on which CCA is granted. On issuance of the CCA an industry becomes operational whereafter the 24 Points compendium become applicable as per the scheme of the Government Order dated 07.07.2017.

64. In **Om Gurusai Construction Co. v. V.N. Reddy**: 2023 SCC OnLine SC 1051, the Hon'ble Supreme Court held that: -

“20. This is a case where the appellant has complied with the condition of furnishing the additional performance security at the earliest possible time, that it could possibly comply. That no one can be compelled to perform an impossible task - Lex non cogit ad impossibilia - is a well-accepted legal principle.

21. This Court in Raj Kumar Dey v. Tarapada Dey, (1987) 4 SCC 398, while quoting, approving and applying the maxim to the facts of that case, had the following to say:

*“6. ... The other maxim is lex non cogit ad impossibilia (Broom's Legal Maxims - page 162) - **The law does not compel a man to do that which he cannot possibly perform. The law itself and the administration of it, said Sir W. Scott, with reference to an alleged infraction of the revenue laws, must yield to that to which everything must bend, to necessity;** the law, in its most positive and peremptory injunctions, is understood to disclaim, as it does in its general aphorisms, all intention of compelling impossibilities, and the administration of laws must adopt that general exception in the consideration of all particular cases.”*

(Emphasis added in original)

65. The petitioner cannot initiate the proposal for obtaining a fresh / revalidated no objection certificate for two reasons – (i) the Government Order dated 07.07.2017 provides that the proposal for establishment of an animal slaughter house has to be initiated by the local authority by submitting a D.P.R., and it cannot be done by the petitioner and (ii) the District Magistrate has himself written that requirements of all the 24 points of the compendium cannot be fulfilled before commencement of operation of the industry. In these

circumstances, the principle *lex non cogit ad impossibilia* is fully applicable to the present case.

66. The order of the Hon'ble Supreme Court to prepare an index of the relevant laws for circulation to all the concerned so that the management of slaughtering the animals and slaughter house should be done more efficiently, can by no stretch of imagination be interpreted in a manner that the requirements of all the 24 laws mentioned in the compendium have to be fulfilled before establishment of a slaughter house.
67. Therefore, we are of the considered view that the Government Order dated 07.07.2017 does not nullify the no objection certificate dated 21.05.2015 granted by the District Level Committee, the no objection certificate dated 21.10.2016 granted by the State Level Committee and the C.T.E. dated 04.01.2017 issued by the U.P. Pollution Control Board.
68. So far as the submission of the learned counsel for U.P. Pollution Control Board that since the Government Order dated 07.07.2017 has superseded the earlier Government Order dated 26.11.2014 and the Government Order dated 07.07.2017 being the only Government Order in operation, the question of its retrospective operation is not involved, suffice it to say that by mere supersession of an earlier Government Order a subsequent Government Order, would not become effective retrospectively and any Government Order issued by the State has a prospective application.
69. Now, we proceed to examine the plea regarding applicability of the principle of *res judicata* in light of the findings recorded in the judgment and order dated 31.05.2023 passed in Writ-C No.4368 of 2022. The aforesaid Writ Petition was filed by the petitioner challenging the validity of an order dated 11.07.2020 whereby its application for grant of the consent to operate an animal slaughter house under the Air Act and the Water Act had been rejected. This Court had recorded the submission of the petitioner that the Government Order dated 07.07.2017 does not provide for the steps to be taken for pre-establishment consent or post-establishing but pre-

operational consent granted during the operation of the previous Government Order dated 26.11.2014 and that the Government Order dated 07.07.2017 does not operate retrospectively, particularly as it provides for modernizing the already operational industries and also for establishing new industries. It also records the submission of the petitioner that the Government Order dated 07.07.2017 does not require that the no objection certificate issued earlier by the District Magistrate or by the State Level Committee would require any revalidation. The Court has concluded that: -

“(38) A bare perusal of the aforesaid Government Order dated 07.07.2017 reveals that it is mandatory for all the slaughterhouse units to comply with the 24 compendium as mentioned in para-3 of the aforesaid Government Order dated 07.07.2017 for consent to operate/establishment of the modern slaughterhouse. We also notice that clause 4 (3) of the Government Order dated 07.07.2017 clearly observes that after enforcement of the Food Safety and Standards Act, 2006 w.e.f. 05.08.2011, the provisions relating to grant of license available under Uttar Pradesh Nagar Palika Adhiniyam, 1916 and Uttar Pradesh Municipal Corporation Act, 1959 have become redundant.

(39) Apparently, the order dated 21.05.2015 issued by the District Magistrate, Unnao while granting NOC to the petitioner to establish the modernized slaughterhouse plant clearly mentioned in condition no.68 that it will be mandatory for the petitioner to follow the direction issued in future and condition no. 69 categorically states about the consequential effect of deemed cancellation of the said NOC, in case of any irregularity or violation of any of the conditions. The order dated 04.01.2017 issued by the U.P. Pollution Control Board clearly mentioned that conditions enumerated in the NOC given by the District Magistrate, Unnao by the aforesaid order dated 21.05.2015 shall be complied with in letter and spirit. Meaning thereby the petitioner is obliged to follow all the directions for continuation of the NOC granted by the District Magistrate, Unnao in future. However, the issue does not rest here as the Government Order dated 07.07.2017 specifically mentions about supersession of the Government Order dated 26.11.2014 and accordingly directs all the slaughterhouse units to comply with 24 points compendium as mentioned in para-3 of the aforesaid Government Order dated 07.07.2017 for consent to operate/ establishment of the slaughterhouse. Thus, since the earlier NOC dated 21.05.2015 was issued in view of the existing Government Order dated

26.11.2014, which as per the Government Order dated 07.07.2017 stands superseded, it was mandatory for all the slaughterhouse units that in order to seek 'consent to operate', the 24 points compendium as mentioned in para-3 of the aforesaid Government Order dated 07.07.2017 be followed. Thus, apparently, there are two aspects of the matter; firstly NOC ought to have been taken as per the Government Order dated 07.07.2017 to establish the unit; and secondly on establishment of unit, the unit ought to have applied 'consent to operate' as per the Government Order dated 07.07.2017.

(40) In the instant case, NOC of the District Magistrate, Unnao was granted before issuance of the Government Order dated 07.07.2017. Although the petitioner had come to establish the modernized slaughterhouse unit, however, the same was not operational and as such it was mandatory for the petitioner to comply with all the terms of the Government Order dated 07.07.2017 including NOC for 'consent to operate' from the District Magistrate, Unnao, State Level Committee and U.P. Pollution Control Board.

(41) It is an admitted fact that the petitioner has not taken NOC from the District Magistrate, Unnao nor has obtained a re-validation of the said NOC in order to comply with the provisions of Government Order dated 07.07.2017, which are mandatory in nature having been issued pursuant to the dictum of the Apex Court in *Common Cause vs. Union of India and others (supra)* and *Laxmi Narain Modi Vs. Union of India (supra)*, for running the modernized slaughterhouse. Therefore, the U.P. Pollution Control Board has rightly refused to grant 'consent to operate' by means of the impugned orders."

70. Apparently, the subject matter of the earlier Writ Petition was an order refusing to grant CTO, whereas the subject matter of the instant Writ Petition is an order revoking the C.T.O. granted to the petitioner. The issue involved in the previous Writ Petition was regarding legality of an order refusing to issue the C.T.O. whereas the issue involved in the instance Writ Petition is regarding the validity of the order revoking the C.T.O. granted to the petitioner. The bar of res-judicata is attracted when the matter directly and substantially in issue in a case has been finally decided by the Court in a former proceeding. The issues involved in the present Writ Petition and the previous Writ Petition are not the same, so as to attract bar of res-judicata.
71. Further, the judgment rendered by a coordinate bench in an earlier Writ Petition would be binding as a precedent on subsequent benches

in respect of the points raised and decided in the earlier judgment. However, the previous judgment will not operate as a binding precedent in respect of the points which have not been decided therein. The scope and effect of the Government Order dated 07.07.2017 and its prospective operation has not been decided in the judgment dated 31.05.2023. Therefore, we are of the considered view that the aforesaid judgment will not be a binding precedent in respect of the points which have not been decided in that judgment and it will not restrain this Court examining the issues raised in this Writ Petition.

72. As the facts of the case stated in the preceding paragraphs reveal, the District Magistrate Unnao had granted a no objection certificate to the petitioner on 21.05.2015 for establishment of a modern export oriented animal slaughter house subject to 69 conditions mentioned therein. The State Level Committee had granted a no objection certificate to the petitioner vide Office Memorandum dated 21.10.2016 subject to 12 conditions mentioned therein, including a condition that all the conditions mentioned in the no-objection certificate issued by the District Magistrate will have to be complied with. The U.P. Pollution Control Board had granted consent to establish an animal slaughter house to the petitioner on 04.01.2017. The Government Order dated 07.07.2017 was issued thereafter.
73. It was after issuance of the Government Order dated 07.07.2017 that the Governor of Uttar Pradesh entered into a Memorandum of Understanding dated 22.02.2018 with the petitioner assuring that the Governor would facilitate the petitioner to obtain necessary permissions/registrations/ approvals/clearances etc. as per the existing facilities and the regulations of the State and will facilitate the petitioner to establish the project in a time bound manner. All this was done apparently keeping in view the object of the State's policy to promote industries in the State so as to increase the opportunities of employment and attract inflow of foreign currency to the State.
74. However, the petitioner's applications for grant of C.T.O. were rejected repetitively and ultimately Writ-C No.4368 of 2022 filed by it

challenging the validity of rejection order dated 11.07.2020 was also dismissed by means of an order dated 31.05.2023 without deciding the questions whether the Government Order dated 07.07.2017 had retrospective effect and whether the requirements of all the 24 sets of laws indexed in the Government Order dated 07.07.2017 could be complied with before grant of C.T.O. to the industry.

75. The petitioner is apparently making efforts to establish and operate the industry since the year 2015. In this factual background he submitted an application dated 02.06.2023 for revalidation of the no objection certificate. The submission of application in the aforesaid circumstances for revalidation of the no objection certificate will not operate as estoppel against the petitioner so as to restrain it from challenging the requirement of revalidation of no objection certificate.
76. The respondents contend that revalidation of the no objection certificate is necessary as per the provisions contained in the Government Order dated 07.07.2017, which has been issued in compliance of an order dated 17.02.2017, passed by the Hon'ble Supreme Court in Writ Petition (Civil) No.330 of 2001: (Common Cause, A Registered Society Vs. Union of India and others).
77. A perusal of the aforesaid order dated 17.02.2017 as well as Government Order dated 07.07.2017 issued in purported compliance thereof makes it manifest that there is no provision either in the order passed by the Hon'ble Supreme Court or in the Government Order dated 07.07.2017 for revalidation of the no objection certificates granted earlier for establishment of a modern animal slaughter house. It is settled law that there can be no estoppel against the law. When the law does not mandate revalidation of no objection certificates, the mere submission of an application for revalidation of the no objection certificate cannot attract the principle of estoppel against the provisions of law.
78. The effect of passing of the impugned order is that the operation of the petitioner's industry has been prohibited after it was established under the C.T.E. granted by the U. P. Pollution Control Board and after a C.C.A. had been granted to it for a period ending 31.12.2028

after the trial run of the industry was found to be satisfactory. The right to carry on any occupation, trade or business is a Fundamental Right guaranteed Article 19 (1) (g) of the Constitution of India. Article 19 (6) of the Constitution provides that: -

“Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.”

79. Thus the Fundamental Right under Article 19 (1) (g) to carry on any occupation, trade or business is subject to reasonable restrictions imposed by any law made by the State. In **Kharak Singh v. State of U.P.**: AIR 1963 SC 1295, it was held that the provisions of the Police Regulations were merely executive or departmental instructions framed for the guidance of the police officers. They would not therefore be “a law” which the State is entitled to make under the relevant clauses 2 to 6 of Article 19 in order to regulate or curtail fundamental rights guaranteed by the several sub-clauses of Article 19(1), nor would the same be “a procedure established by law” within Article 21.
80. The Fundamental Right under Article 19 (1) (g) can only be regulated by a law made by the State and it cannot be taken away by a mere Government Order, more so, when the same cannot have any retrospective operation. This aspect was not considered by this Court in the judgment and order dated 31.05.2023 passed in Writ-C No.4368 of 2022.
81. The U.P. Pollution Control Board was constituted under Section 4 of the Water Act, 1974 for prevention, control or abatement of pollution

of streams and wells in the State. Subsequently the Air Act, 1981 was enacted and Section 4 of the Air Act provides that where any State Government has constituted a State Pollution Control Board under Section 4 of the Water Act, such State Board shall be deemed to be State Board for the prevention and control of the air pollution also. Thus, the primary objective of the State Pollution Control Board is to take appropriate measures for controlling air and water pollution. The 24 points compendium prepared in compliance of the order dated 17.02.2017, passed by Hon'ble Supreme Court is merely an index of various standards, rules and statutes with regard to slaughtering of animals and management of slaughter houses which relate to various subjects, not limited to pollution.

- 82.** The U.P. Pollution Control Board has jurisdiction under the Air Act and the Water Act to pass appropriate orders to control air and water pollution only. It has no authority to pass any order regarding any subject which is not concerned with the air and water pollution. The authority which had granted the no objection certificate dated 21.05.2015 is the District Magistrate, who has not revoked the no objection certificate and who has not directed the petitioner to get the no objection certificate revalidated, of which there is no requirement as per the Government Order dated 07.07.2017 as well.
- 83.** In these circumstances U.P. Pollution Control Board has no authority to direct the petitioner to obtain a revalidated no objection certificate.
- 84.** Similar action was initiated against another industry viz. M/s Marya Frozen Agro Food Products Pvt. Ltd. and the industry was sealed, but U.P. Pollution Control Board withdrew the show cause notice issued to the said industry without any revalidated no objection certificate having been submitted by the aforesaid industry. U.P. Pollution Control Board has issued C.C.A. to 8 other industries without asking for a revalidated no objection certificate. The explanation offered by the learned Counsel for the Board that those industries were running industries whereas the petitioner has not commenced its operations, does not provide a legally acceptable justification as the Pollution Control Board has granted C.T.O./C.C.A. to the petitioner as well as

to the other industries after all the industries had been established under the authority given by the U. P. Pollution Control Board. After issuance of the C.C.A., the petitioner had also become entitled to operate the industry.

- 85.** The petitioner was granted C.C.A. after successful trial run of the industry. However, its commercial operations could not commence because it has established an export oriented industry which is mandatorily required to be registered with Agricultural and Processed Food Products Export Development Authority (APEDA). The inspection of a fully operational plant by the officers of APEDA is necessary for registration of the petitioner with the aforesaid authority. Attachment of a veterinary doctor from the department of animal husbandry at the petitioner's industry is necessary as per the provisions contained in a Government Order dated 13.01.2016. Although the Animal Husbandry Department had attached a veterinary doctor to the petitioner's industry vide order dated 27.12.2024, this order was cancelled by means of another order dated 31.12.2024 and the petitioner could not get itself registered with APEDA for want of attachment of a government veterinary doctor. It is not the case that the petitioner is not operating the industry, but the authorities are not permitting the petitioner to run the industry by creating obstacles in its operation.
- 86.** The aforesaid facts support the petitioner's contention that the opposite parties have treated the petitioner with hostile discrimination in revoking the C.C.A granted to the petitioner for the reason that the petitioner had not submitted a revalidated no objection certificate.
- 87.** The order dated 25.11.2024 passed by the U.P. Pollution Control Board revoking the C.C.A. granted to the petitioner vide order dated 23.08.2024 which was valid for the period from 23.08.2024 to 31.12.2028, without there being any allegation that the petitioner was violating the pollution laws or that it had violated any provision of the 24 point compendium or of any other Statute / Rule / Regulation 25.11.2024, is manifestly unreasonable and unjust. Besides the above, this action of the U. P. Pollution Control Board has resulted in closure

of an export oriented industry, regarding which the Governor of the State has entered into a Memorandum of Understanding dated 22.02.2018 agreeing to facilitate the petitioner to obtain necessary permissions/registrations/ approvals/clearances etc. as per the existing facilities and regulations of the State and also to help the petitioner to avail incentives under various schemes of the State/Central Government, wherever applicable. This Memorandum was entered into keeping in view the object of the State's policy to promote industries in the State so as to increase the opportunities of employment and attract inflow of foreign currency to the State.

88. The impugned order has been passed by the U. P. Pollution Control Board in disregard to the State's policy to promote industries in the State so as to increase the opportunities of employment and attract inflow of foreign currency to the State. It has been passed in utter disregard to the Memorandum of Understanding dated 22.02.2018 entered into by the Hon'ble Governor of the State agreeing to facilitate the establishment of the industry.
89. In view of the foregoing discussion, we are of the considered view that the impugned order dated 14.11.2024 passed by the Chief Environment Officer, U. P. Pollution Control Board is unsustainable in law.
90. Accordingly, the Writ Petition is ***allowed***. The impugned order dated 14.11.2024 passed by the Chief Environment Officer, U. P. Pollution Control Board cancelling the Consolidated Consent to Operate and Authorisation issued to the petitioner on 23.08.2024 for running an animal slaughter house, is **quashed**. The opposite parties are directed to permit the petitioner to operate the modern animal slaughter house in furtherance of the Consolidated Consent to Operate and Authorisation dated 23.08.2024 and to facilitate it in operating the industry keeping in view the State's policy to promote industries in the State so as to increase the opportunities of employment and attract inflow of foreign currency to the State as well as the Memorandum of Understanding dated 22.02.2018 entered between the Hon'ble

Governor of the State and the petitioner assuring that the Governor would facilitate the petitioner to establish the project in a time bound manner.

91. The parties would bear their own costs of litigation.

[Subhash Vidyarthi J.]

[A.R. Masoodi J.]

Order Date: 13.02.2025

Ram.