IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

AND

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

PASSED ON 28th SEPTEMBER, 2026

W.P. Nos.35908/2026 & 25194/2026

MUDRA STEEL INDUSTRIES PRIVATE LIMITED

Versus

STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Amit Agrawal – Senior Advocate assisted by Shri Akhil Godha – Advocate for the petitioner.

Shri Pradyumna Kibe – Government Advocate for the respondent No.1/State.

Shri Aniket Naik – Advocate for the respondents No.2 and 3.

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W.P. No.25194/2026

M/S PENSOL INDUSTRIES PRIVATE LIMITED

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STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Abhinav Dhanodkar – Advocate for the petitioner.

Shri Pradyumna Kibe – Government Advocate for the respondent Nos.1 and 5/State.

Shri Aniket Naik – Advocate for the respondents No.2, 3 and 4.

Shri Amit Agrawal – Senior Advocate assisted by Shri Akhil Godha – Advocate for the respondent No.6.

Per: Justice Jai Kumar Pillai :

O R D E R

1. Since the common question is involved in both the writ petitions, therefore, the same is being heard and decided together by this Order.

2. For the convenience the facts have been taken from **W.P. No.35908/2016**.

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3. The petitioner has approached this Court under Article 226 of the Constitution of India. The petitioner has challenged the closure directions dated 27.08.2026 issued by the respondent No.2, Madhya Pradesh Pollution Control Board. The closure order was issued under Section 31-A of the Air (Prevention and Control of Pollution) Act, 1981. By way of an amendment to the writ petition, the petitioner has also challenged two other orders passed by the Board. The first is the order dated 29.04.2026, which rejected the initial application for renewal of the Consent to Operate. The second is the order dated 11.09.2026, which rejected the fresh application for the Consent to Operate.

FACTS OF THE CASE

4. The petitioner is a Private Limited Company. It operates a factory to manufacture TMT steel bars at Pithampur in District Dhar. The manufacturing process involves melting scrap and sponge iron in an open induction furnace. The fumes from this furnace are passed through a bag filter house for air pollution control. After filtration, the air is released through a chimney into the atmosphere.

5. The respondent Board granted the Consent to Operate to the petitioner on 21.04.2025. This consent was valid up to 31.03.2026. A specific condition was mentioned in this consent order. Condition

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No.13 stated that the Industry must install a "Dog House Type" fumes extraction system on both induction furnaces within six months.

6. The petitioner applied for the renewal of the Consent to Operate on 28.03.2026, just before the previous consent was going to expire. The respondent authorities inspected the factory on 14.04.2026. After the inspection, the Board rejected the renewal application on 29.04.2026. The Board found multiple defects, including the failure to install the required fumes extraction system.

7. Following the rejection, the Board issued an order on 08.05.2026 under Section 31-A of the Air Act. By this order, the factory was directed to be closed and the electricity connection was disconnected. The petitioner then submitted a representation on 28.05.2026. The petitioner asked for 90 days to upgrade the fumes extraction system and submitted a bank guarantee of Rs.17,62,500/-

8. Based on this bank guarantee, the Board issued a conditional order on 16.06.2026. The earlier closure order was put on hold, and the petitioner was allowed to upgrade the extraction system till 31.07.2026. The petitioner claims that the upgradation work was completed within this time limit. The petitioner then filed a fresh application on 13.08.2026 for the Consent to Operate.

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9. On 19.08.2026, an officer of the Board inspected the factory. The Officer noted the installation of the systems and recommended that the consent may be granted. Meanwhile, the Board had received complaints against the factory. The Board directed the Collector, Dhar, to conduct a surprise inspection. A committee formed by the Collector inspected the factory on 12.08.2026.

10. The Collector's Committee found that the newly provided pollution control arrangements were not working. The joints of the suction pipes were open, and the capacity of the system could not be proved. Based on these failures, the Board encashed the bank guarantee on 25.08.2026. Thereafter, the Board issued the challenged closure order on 27.08.2026.

11. After issuing the closure order, the Board re-examined the file. Relying on the Collector's report dated 12.08.2026 and the lack of proper operations, the Board rejected the fresh application for consent on 11.09.2026. The petitioner then submitted a representation on 28.08.2026 with photographs, but no relief was given. This led to the filing of the present writ petition.

CONTENTIONS OF THE PETITIONER

12. The learned Senior counsel for the petitioner submits that the closure order dated 27.08.2026 was passed without jurisdiction.

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It is argued that only the full Board has the power under Section 4 of the Air Act to pass such an order. The Chairman of the Board cannot issue the closure directions without proper delegation of power.

13. The strongest argument raised by the learned Senior counsel for the petitioner is the violation of natural justice. The counsel points out that no show-cause notice was given before closing the factory. No opportunity of hearing was provided before the renewal application was rejected on 29.04.2026 and 11.09.2026. The inspection reports were never supplied to the petitioner to allow them to respond.

14. The petitioner also argues that the Board completely ignored the favorable inspection report dated 19.08.2026. This report was prepared by a qualified engineer of the Board who recommended granting the consent. Instead, the Board relied on the report of the Collector dated 12.08.2026. The counsel submits that the Collector does not have the technical knowledge to check pollution control machines.

15. The learned Senior counsel submits that the penalty of complete closure is too harsh for minor structural defects. Shutting down the electricity ends the livelihood of 300 families. The Board should have given a notice to repair the defects instead of

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completely closing the industry. The action of the Board is against Articles 14 and 19(1)(g) of the Constitution.

16. To support the maintainability of this petition, the learned Senior counsel relies on several judgments. The cases cited are **Whirlpool Corporation Vs. Registrar (1998) 8 SCC 1, U.P. Power Transmission Corp Ltd. V. CG Power (2021) 6 SCC 15, Popcorn Entertainment V. City Industrial Development Corporation (2007) 9 SCC 593, and Alok Kumar Choubey V. State of M.P. 2021(1) MPLJ 348.**

CONTENTIONS OF THE RESPONDENTS

17. The learned counsel for the respondents strongly opposes the petition. The first objection is that the petitioner has a clear alternate remedy. Under Section 31 of the Air Act, an appeal lies before the Appellate Authority. Thereafter, the matter can be taken to the National Green Tribunal. Since a factual dispute is involved, this Court should not hear the writ petition.

18. On the facts, the respondents submits that the petitioner operates a large industry in the orange category. Melting iron at very high temperatures creates dangerous smoke and hazardous waste. Therefore, strict pollution control is necessary. The very first

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consent order dated 21.04.2025 had a strict condition to install the correct fumes extraction system within six months.

19. The respondents pointed out that the petitioner failed to follow this basic condition by October 2025. The original consent expired on 31.03.2026. After this date, the petitioner had no legal right to run the factory. Running a polluting factory without a valid consent is a serious offence under the Air Act. The counsel for the respondents argues that the petitioner cannot claim natural justice to protect an illegal operation.

20. The counsel explains that the order dated 16.06.2026 was only a temporary relief. It allowed electricity strictly for the purpose of testing and installing the new machines. It did not give the petitioner the permission to start commercial production. The surprise inspection on 12.08.2026 was done because the Board received serious complaints from the public about heavy smoke.

21. The Collector's Committee clearly found that the new pollution machines were completely shut off during the inspection. The suction pipes were left open, meaning thereby the dangerous smoke was directly entering the air. The respondents submit that there is a clear violation of Section 21(4) of the Air Act and Clause 13(3) of the 2025 Guidelines of the Central Government. The closure was necessary to protect the environment.

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ANALYSIS AND FINDINGS

22. This Court has carefully considered the submissions made by both the parties. We have read the pleadings and examined the documents placed on record.

23. The entire dispute starts from the first Consent to Operate granted on 21.04.2025. This document is the foundation of the petitioner's right to run the factory. When we look at the consent order dated 21.04.2025 (Annexure P/4), Condition number 13 is very clear. It says that the industry must install a Dog House type Fumes Extraction System on both induction furnaces within six months. The six months ended on 21.10.2025. The petitioner admits in its own representation that it did not install this system on time.

24. The consent to operate expired on 31.03.2026. The law is very strict regarding environmental protection. No industry can run without a valid consent. The petitioner applied for renewal, but it was rejected on 29.04.2026 because the mandatory equipment (Dong House Type Fumes) and other necessary requisites were not installed. The factory was closed. The temporary relief given on 16.06.2026 was only for the purpose of completing the installation.

25. The main argument of the petitioner is about natural justice. The petitioner relies on the Whirlpool Corporation case and other

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judgments to say that a hearing was mandatory. This Court accepts the legal principle laid down in these judgments. The rule of alternate remedy does not apply when an action is completely without jurisdiction or when natural justice is denied.

26. However, natural justice is not a rigid mathematical formula. It depends on the facts of each case. A person claiming a right to be heard must show that they have a legal right that is being taken away. In this case, the petitioner's right to operate ended on 31.03.2026. The factory had no valid consent on the date the closure order was passed on 27.08.2026.

27. Since the petitioner was operating without a valid legal permission, no legal right was violated by not issuing a show-cause notice. Running a factory without consent is a crime under the Air Act. The Board has the emergency power to stop pollution immediately. Giving a long notice period to an illegally running factory would defeat the purpose of the environmental laws.

28. The petitioner also argued that the Chairman had no power to issue the order. We find this argument incorrect. Under emergency situations, the Chairman is allowed to take immediate steps to stop pollution, which are later placed before the Board. The pollution caused by the open induction furnace is severe, and the authorities have to act quickly to protect public health.

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29. The Court has also compared the two inspection reports. The petitioner relies on the report dated 19.08.2026. The respondents relies on the surprise inspection report dated 12.08.2026. The report of 12.08.2026 shows that the machines were installed but were completely switched off. The joints were open. Having a machine is useless, if it is not turned on during the manufacturing process.

30. The law requires strict compliance. There is a clear violation of Section 21(4) of the Air Act. This section gives power to the State Board to cancel the consent if the conditions are not fulfilled. Furthermore, the failure to install and operate the pollution control devices is a violation of Clause 13(3) of the 2025 Guidelines of the Central Government.

31. The State Pollution Control Board is an expert body. This Court, while hearing a writ petition, cannot act as an expert engineer. When a committee formed by the Collector finds that pollution machines are not working, the Court cannot reject that report merely because the Collector is not an engineer. The report was based on visible facts like open pipes and machines being turned off.

32. For all these reasons, this Court finds that the actions of the respondent Board were correct and within the law. The Board did not act blindly. They gave the petitioner a chance in June 2026 to fix

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the problem by taking a bank guarantee. When the petitioner still failed to run the machines properly in August 2026, the Board rightly closed the factory and rejected the consent.

33. After a complete analysis of the facts and the law, this Court reaches a clear conclusion, that the petitioner failed to comply with the mandatory condition of the original consent order. The factory continued to operate without a valid legal consent after March 2026. Thus, the Board acted properly to protect the environment and public health.

34. There is no violation of the principles of natural justice because the petitioner did not have a valid right to operate the factory at the relevant time. The judgments cited by the petitioner do not help in the specific facts of this case. The closure order dated 27.08.2026 and the rejection orders are legal and valid. No interference is required by this Court.

35. Based on the reasons stated above, this writ petition has no merit. The petition is hereby **dismissed**. However, liberty is given to the petitioner to file a fresh application for the Consent to Operate before the Competent Authority. The petitioner may do so only after completely fulfilling all the technical requirements and pollution control conditions, as per the law.

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36. If such a fresh application is filed, the respondent Board shall consider it strictly, in accordance with the law and the applicable environmental rules.

37. There shall be no order as to costs. Pending applications, if any, also stand **dismissed**.

(Subodh Abhyankar)
Judge

(Jai Kumar Pillai)
Judge

Aiyer**/PS

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