

FIRMS PROVIDING JOBS SHOULD NOT BE SHUT: SC

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The Supreme Court has held that an establishment contributing to the economy of the country and providing livelihoods should not be closed on the ground of a “technical irregularity” of not obtaining prior environmental clearance, irrespective of whether or not the unit actually causes pollution.

The judgment by a Bench led by Justice Indira Banerjee on Friday came in an appeal filed by a plastic manufacturing unit in Haryana.

The National Green Tribunal had ordered the unit to be closed for not having prior environmental clearance. However, the top court noted that the unit employs over 8,000 persons.

It had applied for consent to establish and operate from the statutory authorities. Besides, the unit had already applied for “*ex post facto*” environmental clearance.

The court recorded that other branches of the same unit were “totally non-polluting units having zero trade discharge”. The court described the lack of “prior” environmental clearance as a mere “procedural lapse”.

“The court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the project and others dependent on the project, if such projects comply with environmental norms,” Justice Banerjee, who authored the verdict, said.

The court said *ex post facto* environmental clearance is not prohibited under the law.

“*Ex post facto* environmental clearance should not ordinarily be granted, and certainly not for the asking. At the same time *ex post facto* clearances and/or approvals and/or removal of technical irregularities cannot be declined with pedantic rigidity, oblivious of the consequences of stopping the operation of a running steel plant,” the judgment said.

The court added that the “deviant industry” could be penalised on the principle of ‘polluter pays’, and the cost of restoration of environment may be recovered from it.

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