

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
APPLICATION No. 30/2013**

CORAM:

**Hon'ble Shri. Justice V.R. Kingaonkar
(Judicial Member)**

**Hon'ble Dr. Ajay A. Deshpande
(Expert Member)**

B E T W E E N:

Shri. Vinesh Madanaya Kalwal

At Post Ghuggus, Ward No.1

Amrai, Tal. & Dist.Chandrapur.

....Applicant

A N D

- 1. State of Maharashtra.**
The Collector, Chandrapur,
- 2. Maharashtra Pollution Control Board,**
Through Regional Officer, Udyog Bhavan
Civil Lines, Nagpur.
- 3. M/s Lloyd Metals & Engineering Ltd.**
Ghuggus, Tal. &Dist. Chandrapur.
- 4. Western Coalfields Ltd.**
Through: Chief Officer, Chandrapur.

Intervener:

Paryawaran Mitra Bahu Uddeshiya Sanstha,
A society Regd. Under the Societies Registration Act,
bearing Registration No.272/2008, through its
President, Shri. Balu S/o Shimon Chandekar, aged
about 48 years, Occ: Business & Social Service, R/o
Gurgapur, Tah and Dist. Chandrapur.

.....**Respondents**

Counsel for Applicant

F.M.Mesquita Adv (Amicus Curie)

Counsel for Respondent(s):

D.M.Gupte /Supriya Danagare for Respondent Nos.1,2

**R.M. Mahabal/Ms. Shrilekha P. Golekar for
Respondent No.3.**

S.C.Mehandia for Respondent No.4.

Date: May 16th, 2014

J U D G M E N T

1. The present Application was originally listed before the Hon'ble High Court Judicature at Bombay, Bench Nagpur, as Public Interest Litigation (PIL) bearing WP No.3501 of 2006, which was transferred to this Tribunal, vide the Hon'ble High Court order dated October 17th, 2013. The Hon'ble High Court has taken *Suo Motu* cognizance of the public cause in respect of increase in air pollution levels allegedly caused by M/s Lloyds Metal and Engineering Ltd., which is causing adverse health impacts on the villagers in the locality. Hon'ble High Court had issued various orders in this

Petition from time to time and particularly on October 15th, 2008 ordered MPCB–Respondent No.2 to give monthly reports w.e.f. March 2009. Advocate Shri. C.S. Kaptan was appointed as *Amicus Curie* by the High Court, who has also submitted detailed reports, supporting to the cause of PIL.

2. The Applicant submits that the Application is related to air pollution caused due to the industrial units in village Ghuggus, district Chandrapur like M/s Lloyds Metal and Engineering Ltd, M/s Western Coal Field (WCL) and M/s ACC Cement, which are operating in the vicinity of village Ghuggus. The Applicant submits that Respondent-3, Lloyds Metal and Engineering Ltd, which started operations about ten (10) years back, is causing air pollution affecting health of local people and also adverse effects on the agriculture. The Applicant further submits that he has made several representations to the authorities and the authorities have also taken some actions in the past. However, the pollution is still unabated. The Applicant further submits that the Respondent-3 company is expanding its operations by adding more kilns and power generation capacity, which will further add to the air pollution in the surrounding area. The Applicant has prayed for necessary action to control the pollution immediately.

3. The Respondent No.1, is the State Govt. through the Collector, while Respondent No.2 is MPCB, which is regulatory authority, responsible for prevention and control of pollution. Industrial units M/s Lloyds Metal and Engineering Ltd, Ghuggus, and M/s Western Coal Field, Chandrapur have been arrayed as Respondent Nos.3 and 4, respectively. It is observed from the record that Respondent No.1 has not filed any reply before the High Court or in this Tribunal. Respondent No.1 is overall in-charge of the District and is also an authority empowered under the Environment (Protection) Act, 1986. It was therefore necessary for Respondent No. 1 to file an affidavit in the present case, highlighting the local level scenario, particularly in view of allegations regarding health and agricultural impacts of the air pollution.

4. Respondent No.2 MPCB has filed its affidavit on March 16th, 2007 through Shri. V.M. Motghare, Regional Officer. The affidavit has listed five (5) industries, which are established in the vicinity of village Ghuggus as contributing to the air pollution in the area. They are as under:

- (1) M/s Lloyds Metal and Engineering Ltd,
- (2) Ghuggus Open-cast mine of Western Coal Field Ltd.
- (3) M/s Associate Cement Co. Ltd,
- (4) M/s Gupta Coal Washery Usgaon,

(5) Bhatia International Coal Washery, Belsani.

Industries at (1) and (2) above are only arrayed as Respondents in the present Application. The MPCB's affidavit filed subsequently mentions that industry at Sr. No.(3) is generally meeting norms, and industries at Sr. Nos. (4) & (5) are not in operation for a long time.

5. MPCB has submitted that Respondent No.3 industry is a sponge iron unit located within industrial area (MIDC) of Ghuggus and was established in September, 1995, over land admeasuring 224 acres. The industry started production by installing and commissioning one 500 Tone/day capacity Rotary Kiln in 1995. Subsequently, the industry was also allowed to set up total eight (8) new 100/day capacity kilns. The Respondent No.3 industry also has proposed to execute backward integration of operations by installing coal washery and propose to set up a power plant of 25 mw generation capacity. The industry has obtained necessary Environmental Clearance (EC) under the relevant EIA notification from competent authorities and consent from the MPCB for these projects. The affidavit further mentions that sponge iron industry falls in Red category, which is being a highly polluting industry, having several point and area sources of dust emissions. The affidavit has elaborated various air pollution control systems provided by the Respondent No.3 and also, highlighted

deficiencies observed from time to time besides the directions issued by the Board to the industry to carry out up-gradation/modernization in the air pollution control systems and compliance thereof. The affidavit also mentions that ambient air quality at Ghuggus is exceeding National Ambient Air Quality Standards (NAAQS) but there are several contributing factors for such deterioration of air quality. The air quality is regularly monitored by MPCB. The affidavit also highlighted the problem of accumulation of fine dust, which is produced during manufacturing activities of the sponge iron plant, which is an important source of secondary dust emissions. MPCB further submits that they have approached the revenue department and also the MIDC to provide suitable land for disposal of such fine dust.

6. The Respondent No.3 i.e. M/s. Lloyds Metal submitted an affidavit on January 28th, 2008. The Respondent No.3 submits that they have obtained necessary EC and consents for the industrial activities. The Respondent No.3 claimed to have complied with all the conditions of such permissions and also directions issued by the regulatory authorities from time to time. It is claimed by Respondent No.3 that they have provided state of art air pollution control systems including ESP followed by Bag house in order to meet the stringent air

emissions norms. Additional affidavit filed on May 21st, 2008, by the Respondent No.3, further shows that they have complied with directions of the MPCB given in the meeting held on December 12th 2006 and compliance has been communicated to the MPCB on April 5th, 2004. It is further submitted that the ambient air quality at Ghuggus is the cumulative effect of emissions from various sources such as industries, traffic, coal burning etc. As per industry's own analytical assessment submitted with detailed technical evaluation data, as submitted along with its final written submission, the contribution of Respondent-3 industry in the deterioration of ambient air quality at Ghuggus is quite negligible.

7. MPCB i.e. Respondent No.2 filed another affidavit on June 27th, 2008 and submitted that after taking comprehensive review the Board has issued directions to the Respondent No.3 industry on December 4th, 2007 for implementation of time bound improvement of air pollution control system. The affidavit further clearly mentions that though the Respondent No.3 is taking efforts to comply with the directions, the respondent Board is not satisfied with the results of ambient air quality and stack emission levels of the industry run by the Respondent No.3. Thereafter, the Hon'ble High Court had reviewed the matter and the Respondent No.2 Board

issued closure directions to 500 TPD kiln on October 12th 2009 in compliance with the High Court order dated September 30th, 2009. Subsequently, the Respondent No.3 filed an affidavit on June 4th, 2011, claiming that now they have complied with all the directions issued by the Respondent No.2 and have already provided necessary air pollution control systems at their unit. They further submit that MPCB has time and again inspected, monitored and verified the compliances and therefore the petition be dismissed. However, this Application was opposed by the Respondent No.2 Board by filing its affidavit dated October 9th, 2011, wherein it was specifically averred that *“it is therefore most respectfully submitted that the Respondent No.3 industry needs close monitoring and cannot be allowed to be deleted from the array of Respondents as prayed.”* This submission was made while giving various instances of non-compliances including excessive emissions, high dust concentration in the ambient air, non-provision of additional silo etc.

8. The Respondent No.2 filed additional affidavit on October 3rd, 2013, and pointed out that the Respondent No.3 needs to take several steps to control pollution. This particular affidavit was filed in response to the claim of the Respondent No.3, in its affidavit dated August 26th, 2013 that the Respondent- industry has complied with all the directions issued by the Board. The affidavit goes on

to mention several non-compliances and also mentions that the Board has decided to forfeit bank guarantee of Rs.10 lakhs furnished by the industry due to non-compliance. The non-compliances recorded in this affidavit are reproduced below:

- i) *Only kiln No.s 1, 2 and 4 (100 TPD) along with power plant on 60% load were observed in operation during visit. Main Kiln of 500 TPD, washery unit were found not in operation.*
- ii) ***As submitted in consent Application, ESPs provided at 100 TPD Kilns, 500 TPD Kiln and at Power Plant are designed for SPM emission control of 100 mg/Nm³, 75 mg/Nm³ and 50 mg/Nm³ respectively, whereas the Board has stipulated SPM standards of 50 mg/Nm³ and as per specific condition no.26 of consent order it has been directed to reduce stack emissions. Industry has now proposed to enhance efficiency of the ESPs by changing collecting plates, internal etc. and reported that time bound action plan will be submitted to the Board,***
- iii) *Industry has not disposed of entire solid waste as during visit huge quantity of solid waste i.e. ESP dust, sludge was stored over large area without any measures taken to control fugitive emissions due to wind blowing. It seems that, industry has totally failed to manage solid waste storage and scientific disposal and may cause deterioration of*

ambient air due to mishandling and disposal and immediate improvement is necessary.

iv) Further negligence towards housekeeping within entire plant area and working sections is observed as heaps of dry fine dust, sludge, ESP dust was observed, contributing towards fugitive dust emissions. Fugitive dust emissions observed due to internal transportation movement and no watering was found. Side claddings were found missing at various locations i.e. at 500 TPD transfer house fold magnetic separate) at product house, char conveyer belt, fine sponge iron storage section etc.

v) Fugitive dust emissions observed due to internal transportation movement and no watering was found. Side

vi) Side claddings were found missing at various locations i.e. at 500 TPD transfer house fold magnetic separate) at product house, char conveyer belt, fine sponge iron storage section etc.

vii) Industry shall explore voluntarily dust emissions area and shall carry out corrective measures or modified existing system as fugitive dust emission observed while loading product, waste due to high free-fall height, and no arrangement for dust containment systems i.e. belt curtains all around, fine char hoppers (0 to 6 mm) were chocked, and overflowed.

- viii) *Operation and Maintenance of Air Pollution Control systems needs improvement, as some of the Bag Filters were found not in operation. Emission from stack attached at DE-12 (Cooler 3 and 4) and DE-11 (attached to cooler 1 and 2) found on higher side visually.*
- ix) *Emission from inlet/ outlet seals of kiln I, II and IV and cooler seals observed and needs to be control.*
- x) *Settling tanks at Coal Washery Section was totally silted and regular cleaning is necessary.*

It is also noted that MPCB Chandrapur office had submitted a proposal on September 26th, 2013 to MPCB headquarters, clearly mentioning these facts while recommending that opinion of an expert body like IIT be taken on the performance of air pollution control systems installed at this industry. No records are available or mentioned in further affidavits on action taken by MPCB in this regard.

9. Considering claims and counter claims, we had directed MPCB on January 21st, 2014 to submit a report on air pollution level in Chandrapur and Ghuggus area and also air pollution caused due to various major contributing industries/sources along with status of implementation of action plan. During hearing on March 11th, 2014, learned Amicus curie F.M. Mesquita, pointed out that in spite of Notices issued by MPCB, and deficiencies pointed out during course of inspections,

non-compliances pointed out in the earlier reply affidavit of MPCB, the same have not been specifically referred in the subsequent affidavit of MPCB filed on February 14th 2014. The MPCB was also directed to submit NEERI report. However, the same was not submitted. We had therefore directed the Regional officer of MPCB to personally cause inspection for the verification. The relevant order is reproduced as under:

He shall visit the industries, in order to collect the data and particularly regarding addition of pollution level at the source by such industries, addition of pollution level on account of transportation of coal in the area of, addition of pollution level by any other source and give percentage-wise addition of such pollution at the source with particulars of such pollution added, if any, by the Respondent Nos. 3 and 4, along with air quality/emission data of last two (2) years. Report of Regional Officer also shall give details of actions taken so far against the polluting industries or the activators of the pollution. Report be submitted along with all data and copies of letter, correspondence etc. on or before 3rd April, 2014.

10. The Regional officer subsequently filed affidavit on 22nd April, 2014. On careful perusal of the affidavit, we could not find compliance of the order dated March 11th, 2014 as polluting sources and their contributions are not mentioned. Further, there is no reference to actions taken by the MPCB in the past and also, the status of non-compliances referred in earlier affidavit, also are not stated with substratum.

11. The Respondent No.4 is an open cast coal mine involved in mining of coal. The Respondent No.4 has filed first affidavit only on 21/4/2014 though the Writ Petition was filed way back in 2006. The Respondent No.4 submits that it obtained Environmental clearance and also, consent to operate for the mining activity. It is the contention of the Respondent No. 4 in its affidavit and also in the argument of the counsel that no specific allegations are made against Respondent No.4 in the Application or in the MPCB's affidavit, nor there is any specific order from Hon'ble High Court against them. The Respondent No.4 has submitted that they are open for any suggestions for improvement by MPCB and directions from this Tribunal of improve their pollution control systems. They further submitted a short term and long term pollution abatement improvement program as formulated by them.

12. Considering rival pleadings and also submissions of learned Counsel for the parties, following issues arise for adjudication of the present Application.

1. Whether industrial operations of Respondent No.3 and Respondent No.4, are in keeping with due compliance of environmental norms?
2. Whether industrial operations of Respondent No.3 and Respondent No.4, are causing

deterioration of air quality in village Ghuggus?

3. Whether the response of Authorities is adequate and comprehensive to deal with the problem of air pollution at Ghuggus?
4. What directions are necessary to be issued against the contesting Respondents to abate the air pollution at Ghuggus?

13. The sponge iron industry has grown significantly in last decade. Direct Reduced Iron (DRI) route, is preferred over blast furnace route for manufacturing of steel due to smaller scale of production, access to iron ore, paucity of coking coal, lesser investments etc. It is reported in the report of Centre for Science and Environment, 2012 that about 27% of steel is produced through coal based (DRI) route in India, though sponge iron industry is known to be an air polluting activity which has multiple sources of air pollution. The important processes in sponge iron industry, which generate air emissions are as under:

(Processes):

1. Combustion of coal in pre-heating zone, kiln.
2. Oxidation of iron ore in the process zone, kiln.
3. Flue gas from kiln through the upper end.

4. Dust of char, unburnt lime, sulphur, alumina and others through discharge end.
5. Flue gas through the cap of after burn chamber.
6. Particulate matter from ESP

This industrial activity involves large scale material handling and therefore there are several sources of fugitive air emissions which are as under:

7. Raw material handling and filling area.
8. Recuperate or on WHRB.
9. Discharge end and cooler discharge.
10. Product separator.
11. Work area of plant.
12. Transfer points of raw material conveyance system.

The sponge iron industries also generate large quantity of solid waste, which is an important source of secondary air emissions. The average solid waste generated by DRI based sponge iron plant, is about 707 kg/tonne of DRI production. This includes char, dust, ESP dust, dust from sitting, chambering, kiln accretions etc.

14. The open cast coal mine is also an important air polluting activity, mainly due to large scale coal and soil loading and unloading activities. Other important sources

are suspension of dust, coal fires etc. However most of the sources are area sources and particulates (dust) which are known as the major pollutants. The MPCB though, has submitted some ambient air quality reports which are of exceeding standards, however, has not submitted details of action taken or proposed against the Respondent No.4.

15. The learned *Amicus Curie*, pointed out that this is a typical case where every time the regulator inspected the industry of Respondent No.3, series of non-compliances were observed for which Notice or directions were/are issued by the Respondent No.2, and subsequently on assurance of industry to upgrade the pollution control systems in time bound manner, the lapses are over-looked. The actions are given a decent burial. This cycle is continued since year 2006 and there is not a single instance when regulatory authority i.e. Respondent No.2, satisfied itself with the compliance of the industry. The Respondent No.2 has issued several Notices/directions including closure orders and has also forfeited bank guarantees on several occasions. In spite of that no stringent and comprehensive action has been initiated by the Board including prosecution and also, closure for substantial time. She argued that Chandrapur area is declared as 'Critically polluted area' under CEPI and the MoEF has placed a moratorium on

expansion/new industrial growth in Chandrapur area due to high pollution levels. Ghuggus is specifically included in this 'Critically polluted area' and though the MPCB has formulated action plans, pollution level has not substantially been reduced. Learned *Amicus Curie* therefore submitted that in view of continuous non-compliances by the industry and lack of sufficient actions by the Respondent No.2 – Board, it is necessary for the Tribunal to consider strong action and also, evolve sufficient monitoring and evaluation mechanism to ensure that the Respondent industries are complying with pollution norms on regular basis. She also submits that from the record available and affidavits filed by the Respondent No.2, at several occasions, it can be seen that the MPCB's approach is not transparent and non-compliances observed are even not reported in the next affidavit. She pleads that this fact further necessitates a need of independent monitoring and evaluation mechanism. She also pleaded that similar action is also required in case of the Respondent No.4.

16. Shri. Mahabal, learned Advocate for the Respondent No.3, submitted that sponge iron industry, is an air polluting industry having multiple point and air sources of dust emissions. The Counsel submits that whenever the industry has been directed by the Board to upgrade/improve its pollution control system, they have

fully complied the directions. The learned Advocate submits that they have now provided state of art air pollution control system, including bag houses after the ESP, captive coal washery, char utilization and fine dust disposal, which is unique in such type of industry. The learned Advocate further submits that the MPCB has time and again reviewed emission standards and have made it most stringent from time to time and therefore, industry has also upgraded its pollution control system in time bound manner. It is submitted by learned Advocate that retro-fitting by pollution control system in an industrial plant is a difficult task and therefore, in case of revision of standards, the industry needs to be given sufficient time for such retro fitting. Learned Advocate further submits that though there are several contributing factors for deteriorating ambient air quality of Ghuggus, yet contribution of the Respondent No.3 in the air quality deterioration is absolutely small, the industry is willing to take responsibility of its small contribution in such air pollution and is ready and willing to abide by any directions by the Board or this Tribunal.

17. We have also gone through submissions of MPCB relating to stack emission monitoring results and also ambient air quality results of the Unit i.e. run by Respondent No.3, compared with consented standards. We have noted that as per the affidavit dated April 4th,

2014, filed by the Regional Officer MPCB, stack results presented vide Annexure-F, show consistent compliance from July, 2013 for all types of stacks. We have also noted submissions of MPCB in the earlier affidavit dated October 3rd, 2013, wherein it is clearly mentioned in para-6 (ii) that ESP's provided at the industrial units are not designed for the consented standards and the industry has now proposed to enhance efficiency of all ESP's by changing collecting plates, inner etc. and reported that time bound action plan will be submitted to the Board. Thus, this averment contradicts the available monitoring results when the air pollution control equipment is not designed for a specific purpose, we fail to appreciate as to how such results have been monitored by the MPCB. It is noted from previous monitoring results (prior to July-2013) that the stack air emissions were exceeding, significantly at Respondent No. 3 industry and the Board had issued notices/directions etc. based on such results and even, forfeited BG on some occasions. Similarly, MPCB has issued directions under Air Act, 1981 to the Respondent No. 4 from time to time, and have reported higher dust concentrations at some locations in their premises. This has been challenged by the Respondent No. 4 on the ground that the concentrations are within consented standards, which are much relaxed compared to NAAQS. We are not

inclined to accept this stand as these standards are primarily the industrial activity level standards, and, in no way can be considered applicable to locations like Hospital, residential quarters, transit quarters etc. Considering the above, we are of the considered opinion to hold that the issue No.1 is duly proved. Hence, it is answered in “Affirmative”.

18. The MPCB has also filed reports of ambient air quality at Ghuggus which shows consistent high concentrations of particulates, on a long term duration basis. It has been clearly established that the ambient air quality at Ghuggus, is deteriorated and therefore the CPCB has identified this area as “Critically polluted area”. It is true that the ambient air quality at Ghuggus is cumulative effect of various sources of air pollution, including industries, traffic, coal burning etc. However, it cannot be disputed that the industries are generally largest contributing point sources of emissions and have necessary control systems to regulate emissions and therefore in any air quality management, the industrial emission control is the first preferred action. Moreover, many of the other sources like traffic etc. is generally related to industrial activities of the Respondent Nos.3 and 4. Hence, their role in entire air quality management is crucial. And therefore, the non-compliance by these industries, which are incidentally large scale industries,

cannot be just given liberal treatment in view of other air pollution sources. However, it is also necessary that MPCB, shall identify these sources and take necessary action. And therefore, the Tribunal records its finding on Issue No.2 framed above, in Affirmative.

19. The Air Act, 1981, is designed to prevent control and abatement of air-pollution; the provisions relate to preservation of quality of air and control of pollution. Keeping in view these objects, the Act has provided for measures, which are preventive in nature, in the cases of industries to be established; and in the case of industries already established, they are remedial. In the case of established industries, it insists on obtaining consent of, Board, making the industry amenable to the administrative control of the Board. Once consent is given, the Board can issue orders, directions under section 31(A) etc., which are to be complied with by the industry. Precisely it is for such reason, the industry, which has been given consent, is required to comply with certain conditions, enumerated in sub-section (5) of Section 21 of the Air Act, 1981. Non-compliance of these conditions and directions under 31 (A) is made punishable under Section 37. The primary responsibility of controlling the Air-Pollution is on the State Board. Subsection (2) of Section 23 of Air Act, 1981 casts a duty on the Board to cause such remedial measures as are

necessary to mitigate the emission of air pollutants, and the expenses that are incurred can be recovered from the person concerned as arrears of land revenue. Section 17(g) of the Air Act, has entrusted the responsibility of framing emission standards on the State Board, which needs to be formulated considering the prevailing air quality as compared to the ambient air quality standards specified by the CPCB. The Act further empowers the Board under Section 22-A, to approach the Court in case of apprehension of pollution and also for filing of a complaint under Section 37. All these provisions provide sufficient legal powers that enable the State Board to effectively tackle the problem of Air pollution.

20. This is an interesting case where the regulatory agency i.e. MPCB has issued directions under Section 31-A of the Air Act against the Respondent Nos.3 and 4, for non-compliances which were frequently observed. Learned *Amicus Curie*, contended that such repeated issuance of directions by the MPCB and forfeiture of bank guarantee for giving additional time for compliance, amounts to misinterpretation of entire enforcement mechanism, as envisaged in the Air Act, and non-exercise of the real control measures.

21. Though the Board issued several directions to the Respondent No.3, and then gave additional time for compliance after forfeiting the bank guarantee and asking

for submission of new additional bank guarantee, yet it was of no avail. If seen in a different perspective, such actions of the Board would amount to allowing the industries to pay and pollute. We do not find any specific efforts of the MPCB, as envisaged under Sections 23(2) and 23(3) for taking remedial measures or recovering costs of such remedial measures. The Tribunal, therefore, feels that there is an urgent need that MPCB shall revisit its enforcement policy which shall effectively integrate various aspects including inspections, monitoring, standards, compliances, directions, remedial measures and filing of complaints before the Courts as per the provisions of the Environment Act, based on culpability, environmental damages, severity of pollution, repeated violations etc. The enforcement strategy of MPCB seems to be restricted to a rounded and cyclic approach involving inspection, monitoring, directions and forfeiture of bank guarantees, which is invoked in the event of each observed non-compliance. It has been held by the Hon'ble High Courts and also this Tribunal in several cases that forfeiture of bank guarantee cannot be construed as penal action and can be done for specific purposes as elaborated in Judgments in Appeal No.43/2012 and Appeal No.10/2011 of this Tribunal. Further, the amount of Bank guarantees forfeited, needs to be utilized for the purpose of compensation or

restoration of degraded environment as elaborated in the Judgment of Application No.68/2012 of this Tribunal.

22. In the present case, the response of the regulatory authority is not comprehensive and based on the records available. So, we intend to give directions for time-bound compliances. However, the major concern is effective implementation of the proposed directions. We intend to form monitoring committee of experts, consisting both government officials and the independent experts, for a particular duration, so that the directions of the Tribunal are implemented in time frame and in effective manner. There are several instances where the Apex court and also various High Courts have formed such monitoring committees for effective implementation of directions.

Hon'ble Madras High court in the matter "**M. Ramasamy & Others Vs. The Chief Secretary, Government of Tamil Nadu and Ors (2012(8) MLJ628)**" observed:

54. *A public interest litigation is for the betterment of the public at large. That is why in public interest litigation, role of the Court is more assertive than in the traditional litigations. i.e., the Court plays a positive role with the responsibility for organization of the proceedings, moulding the relief and also supervising the implementation thereof. The Court is*

entitled to often seek the assistance of Expert/Panels/Commissioners/Advisory Committees and Monitoring Committees. This wide range of responsibilities and the relief granted is on a large scale redressing the grievance of all the affected persons.

Apex Court in “**M.C. Mehta Vs. Union of India (UOI) and Ors. (2004) 12 SCC 118**”, a matter related to Aravali Hills also thought it expedient to form a monitoring committee as under;

92. *With a view to monitor the overall eco-restoration efforts in the Aravalli Hills and to provide technical support to the implementing organizations and also to monitor implementation of recommendations contained in reports referred herein, it is necessary to constitute a Monitoring Committee. The heads of the following departments would be members of the Monitoring Committee:*

1. *Regional Officer of State Pollution Control Board.*
2. *Forest Department*
3. *District Administration*
4. *Department of Mining & Geology*
5. *Irrigation Department*
6. *Regional Officer of CGWB*
7. *Agriculture Department*

8. District industry Department.

9. Chairman - CPCB.

Hon'ble Supreme Court in "**D.K.Joshi v. Chief Secretary, State of U.P.: AIR 2000 SC 384**" where the petition was filed under Article 32 of the Constitution of India as Public Interest Litigation alleging that supply of drinking water in Agra city is being contaminated with pollutants and causing health problems, consumption, called for status reports from the Government of Uttar Pradesh and based on reports, went on giving various directions pursuant to which the State Government took definite steps. However, when the Court found that the steps taken by Agra Municipality are inadequate, the Court appointed a monitoring committee to be headed by the Commissioner of Agra Division, a representative of the Pollution Control Board, Chief Medical Officer, Agra and others. The Committee was directed to meet once in every two (2) months and prepare plan for steps to be taken and State Government was directed to take appropriate action as per law. These directions were given 'with a hope that the, monitoring committee will try its best to achieve maximum results for providing unpolluted water to the citizens of Agra.'

In another well documented matter, the Apex Court in "**Research Foundation v. Union of India & Others,**

WP No. 657/1995 (2003.10.14) vide order dated 14.10.2003, thought it fit to constitute a monitoring committee for efficient hazardous waste management in the country as under:

“66. It appears from the Report that about 80% of country’s hazardous waste is generated in the State of Maharashtra, Gujarat, Tamil Nadu and Andhra Pradesh. This may also show good industrial growth in those States. Be that as it may, to ensure that the generation of hazardous waste is minimum and it is properly handled in every State including the aforesaid States, in particular, it is necessary to appoint a Monitoring Committee to oversee the compliance of law, directions of this Court and Rules and Regulations.”

23. Sum total of the foregoing discussion is that air emissions for the industrial activities of the Respondent Nos. 3 and 4, and more particularly, from Respondent 3 industry are found to be exceeding the standards in concentrations for a substantial period since its commissioning. The observations made by the MPCB in its visit report dated 25.9.2013 and subsequent proposal submitted by MPCB, Chandrapur office to the MPCB Headquarters on 26.3.2013 clearly establish that even now the air pollution control systems provided by the Respondent No.3 (Industry), are not adequate and designed to meet the standards prescribed by the Board. Under these circumstances, the air quality monitoring done by the MPCB and stand of the Respondent No.3 as

regards compliances, cannot be relied upon and hence it is not accepted. We do not know what actions have been taken on such important proposal by the MPCB Headquarters. We also notice absence of any reference to this proposal and the facts recorded in this proposal in the subsequent affidavits of the MPCB, which is filed in this matter.

24. Considering the record available and the arguments of the Counsel, we are inclined to partly allow the Application as stated below:

- (a)** A joint inspection and monitoring of the industry be done by a team of CPCB and MPCB in four (4) weeks hereafter and based on the observations and findings, MPCB shall issue comprehensive directions to the Respondent Nos. 3 and 4 industries, within one month thereafter for improvement of pollution control systems in maximum 6 months thereafter. MPCB shall also take into account the proposal sent by MPCB, Chandrapur office vide letter dated 26/9/2013. The MPCB may also issue simultaneous directions to curtail the production levels at the industry in tune with the adequacy of pollution control systems, if found necessary and if deemed proper.

(b) The Chairman, MPCB shall review the progress of NEERI study in four (4) weeks to ensure the timely completion of such study and necessary actions shall be initiated on priority basis.

(c) MPCB shall frame the enforcement policy in next twelve (12) weeks as discussed in above paragraphs and publish it on its website for public information.

(d) The Respondent No.3 shall deposit Rs. Ten (10) lakhs towards the cost of environmental damages due to excessive air emissions since beginning of plant, with Collector, Chandrapur in eight (8) weeks who shall use this amount for environmental improvement activities in Village Ghuggus in consultation with the expert committee referred in below mentioned paras. MPCB shall also deposit the amount of BG forfeited from Respondent Nos. 3 and 4, so far, if the same has not been used for remedial measures in the area, with Collector, Chandrapur in eight (8) weeks for the above purpose.

(e) An Expert Committee is hereby constituted to ensure the compliance of these directions in time bound manner and also, the compliance

of consent conditions by the industries in Ghuggus area and the ambient air quality at Ghuggus, for a period of next 2 years. The Committee will comprise of:

- (1) Shri. Mhaisalkar,
Professor, Environmental Engineering,
VNIT, Nagpur – Chairman.
- (2) Representative of Principal,
College of Engineering, Chandrapur
- (3) Zonal Officer, CPCB, Vadodara
- (4) Regional Officer, MPCB – Member
convener.

The committee shall meet minimum once in 3 months and submit a report to Registrar of the Tribunal with copy to Chairperson, MPCB for further actions. Chairman of Committee is at liberty to bring any particular non-compliance or difficulty to the notice of Tribunal. All the expenses including travel, subsistence, honorarium, secretarial assistance etc. shall be borne by MPCB.

(f) Respondent No.3 shall pay cost of Rs.10,000/- to the Applicant towards cost of litigation.

The Application is accordingly disposed of.

....., **JM**
(Justice V. R. Kingaonkar)

....., **EM**
(Dr. Ajay A. Deshpande)