

**BEFORE THE HON'BLE NATIONAL GREEN  
TRIBUNAL SOUTHERN BENCH, CHENNAI**

**O A NO. 17 OF 2021 (SZ)**

**Vipin Nath & Sinu C. Jacob : Applicant(s)**

Versus

**Bharat Petroleum Corporation**

**Limited and Others : Respondent(s)**

and

**O A NO. 265 OF 2017**

**&**

**M A 216 OF 2017**

**N.G. Soman : Applicant**

Versus

**The State of Kerala,**

**Kerala State Pollution Control Board : Respondent(s)**

**VOLUME 1**

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Dated this the 18th day of December 2021

**V.K Rema Smrithi**, Advocate

ADDITIONAL STANDING COUNSEL FOR THE 5<sup>th</sup> RESPONDENT

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTHERN BENCH, CHENNAI**

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**REPORT SUBMITTED AS PER THE ORDER DATED 16.11.2021 IN O A 17  
of 2021 & IN OA 265 of 2017/M A 216 OF 2017**

1. I, M. A. Baiju, 55 years, S/o Sri. M. K. Aravindakshan, am working as Chief Environmental Engineer, Regional Office, Kerala State Pollution Control Board, Ernakulum. I am competent to and duly authorized to represent the 5<sup>th</sup> Respondent in the Original Applications mentioned above. I know the facts and circumstances of the case. The factual submissions made hereunder are true and correct to the best of my knowledge, information and belief. It is important to note that the Hon'ble Tribunal heard the Interlocutory application on 30.07.2021 and delivered an order. which was noted as follows,

*“So, we direct the Kerala State Pollution Control Board to inspect the area in question and submit a report as to whether there was any noise as well as air pollution caused on account of offending units which are said to have committed the violation of conditions and submit an independent report regarding the same and if there is any violation of norms, then they are directed to provide remedial*



  
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 Chief Environmental Engineer

*measures in this regard. They are directed to submit the report to this Tribunal on or before 11.08.2021 on which date, the cases were originally posted”*

*Also ordered,*

*“With the above observation and direction, this interlocutory application [I.A.No.104/2021(SZ) in O.A. No.17/2021(SZ)] is disposed of”*

*“Post the matter to 13.08.2021 on which date, the cases were originally posted for consideration of joint committee report”.*

There were some objections raised by the 1<sup>st</sup> respondent through affidavit dated 13.09.2021. Item wise clarifications are given hereunder:

**Items 7, 12.** *A complaint was lodged by Sri. Vipinnath A. V. before the Hon’ble Prime Minister’s Office. As per the order of the CPCB, CPCB official conducted a virtual hearing with SPCB, complainants and industry authorities on 29.09.2020 and inspection at the site on 23.10.2020 and submitted report dated 03.12.2020. Based on the direction of CPCB a technical committee was constituted by the Chairman, SPCB. This committee consists of officials of different regulatory agencies viz. SPCB, CPCB, PESO, MoEF&CC and District Magistrate, Ernakulam. The Committee’s report was submitted before the NGT through status reports by the CEE, authorized by this respondent and Environmental Engineer, the member convener of the committee. Thereafter, the complainant Sri.Vipinnath A. V. filed application before the Hon’ble NGT numbered as OA 17 of 2021.*

**Item 13.b.** *The samples collected by SPCB from the outlet showed exceeding concentrations in phenolic compound. But repeat sampling showed concentration within the limit.*

**c.** *Noise level measured at almost all places showed exceedance from standards stipulated as per Noises Rules 2000, especially during night along residential area. Here, the committee unanimously recommended that the industry is not complying with standards applicable to residential areas whereas they are following the industrial standards ie, 75 -70 dB(A) (Day*



  
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and night). Here, it is important to note that the residential limits are 55-45 dB(A) (Day and night).

**Item 13. ii.** Pollution issues due to the continuous operation of different processing sections of the industry are specifically addressed by the technical committee.

**iii.** Proceedings on Human Rights Commission (HRMP No. 11018 of 2014 filed by T.K Ravi, Secretary, and K.J Mani, President, Kuzhikkad residence association) was mentioning about insisting Green belt and Bufferzone while issuing authorization to industry by regulatory authorities.

**Items 14. 15.** It is important to see that several complaints were registered during the expansion stage which was specifically related to the environmental issues due to such development. It is also noted that EC was issued earlier specifying 500 m Green belt around the unit. They are not able to maintain it and the mandate was re-fixed to 33% area around the unit. This is not maintained by the factory till date which was specially addressed by the CPCB and technical committee in their reports.

**Item 20.** ICO issued to PDPP during 2019 after severe revisions and by accepting industry's representation that the commencement of operation of the unit will be usually batch wise where periodical commissioning is needed and ICO with variation will be required on each occasion. But it is to be noted that PDPP plant is not yet commissioned fully and ICO is not renewed by the SPCB till now.

**Item 21.** It is true that the MoEF&CC considered EIA recommendation since the EIA preparation was done by an agency accredited by them but the unit failed to comply with the specific conditions stipulated in the EC with respect to Greenbelt which was specially remarked by the Technical Committee.

2. This Tribunal vide order on 01.10.2021 directed as follows:



  
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*“Kerala State Pollution Control Board is directed to conduct noise level monitoring test inside the factory premises and also outside the premises at different locations including near the houses of the applicants in both cases so as to compare the noise levels difference as to whether it tallies with the standard provided or norms provided and submit a report.”*

Further the case was heard on 29.10.2021 and the order of the Hon’ble Tribunal was specific with respect to noise level monitoring which read as follows,

*“They can conduct test only on the basis of the manner in which the tests are being conducted and if there is any difference between the Online Monitoring and the physical test conducted by the Pollution Control Board, they are at liberty to mention the reasons as to why such things are happening. Further, they can also ascertain as to whether there is any possibility of cumulative impact of the noise that is likely to be emanated from other industries, if they are situated near or away from the 1st Respondent unit and that aspect can be noted by them in the report.”*

3. It may also be noted that, the order dated 29.10.2021 is self-explanatory that the industry had produced online data for noise monitoring at four locations. On verification it is understood that those are not real time online monitoring data and the industry has not installed any such continuous online noise monitoring arrangements till now whereas those are daily noise data having 1 hr noise level/day submitted by the unit for the period from 29.03.2021 to 12.06.2021 (Total 34 hourly readings out of 74 days) seen submitted along with their report and the Hon’ble Tribunal finally ordered to countercheck those readings. However, it was planned to monitor noise levels due to the operation of the respondent industry and other industrial units in the nearby vicinity for which source level noise inside the factory as well as sound level at complainant’s dwellings.



  
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4. It is respectfully submitted that though the 1<sup>st</sup> respondent has submitted application for consent to Operate/Renewal MSBP, IREP and PDPP plants, Integrated Consent to Operate (ICO) was issued to MSBP only with specific conditions. It is pertinent to note that a condition was added in the ICO that online noise monitoring stations shall be installed at strategic points to ensure that this unit is not creating any nuisance to nearby residential areas. During inspection conducted on 26.11.2021 it was intimated that they are going to install such noise monitoring arrangements immediately.

5. It is respectfully submitted that the Hon'ble Tribunal heard this application once again on 16.11.2021 and delivered an order, the main portion of which read as follows,

*“The applicant in O.A. 17 of 2021 had submitted their objections and additional documents for the rejoinder submitted by the project proponent.*

*Ms. Nivedita S. Menon representing Ms. RemaSmrithi Learned Counsel for the Pollution Control Board submitted that they want some for submitting the report as directed. They are forgetting the fact that the matter was advanced at the request of the applicant in O.A. No. 17 of 2021 and other matter is pending since 2017. They are expected to file the report at the earliest possible time, so as to enable this Tribunal to dispose of the matter without further delay”*

6. I may humbly submit that there were certain issues in satisfactorily completing monitoring though the action plan for such monitoring was finalized well in advance, important among which are as follows,

- a. Heavy rain during the previous month which continued till first week of December hindered the noise monitoring. Proper placement of sound level meters at different stations / actual sound measurement due to the operation of the industrial unit during rain was difficult. Hence, the Board had to wait for such rainless day/night.
- b. The industry had responded to Board's letter asking their operation status of certain plants on 23.11.2021 only. This was issued to ensure that these plants are working sufficiently to measure noise levels.



  
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7. However, monitoring was rescheduled and completed on 04.12.2021. Copy of the report on noise monitoring is attached as **Annexure 1**.

8. I may humbly submit that the delay occurred in submitting the report may be condoned. The delay occurred due to the bad weather conditions.

All that is stated above are true to the best of my knowledge information and belief.

Dated this 18<sup>th</sup> day of December 2021.



**Chief Environmental Engineer**

**For and On Behalf Of the 5<sup>th</sup> Respondent**



**M. A. BAIJU**  
**Chief Environmental Engineer**