

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
IN
OA. No.84/2022

SL. No. 51/12022
Date 16.04.22

IN THE MATTER OF:

T.V. George

.....APPLICANT

VERSUS

The Chairman, Railway Board,
Ministry of Railway & ORS.

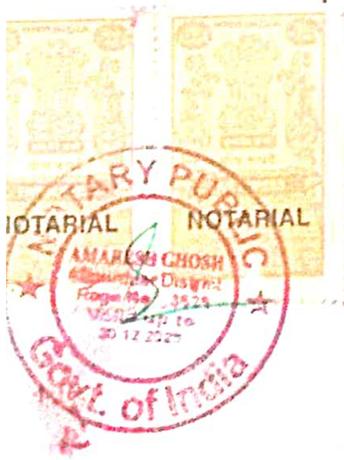
.....RESPONDENTS

AN ADDITIONAL AFFIDAVIT/COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENT NO. 2 i.e., DIVISIONAL RAILWAY MANAGER TO THE AFFIDAVIT FILED BY RESPONDENT NO. 3 (MEMBER SECRETARY, WEST BENGAL POLLUTION CONTROL BOARD).

Most Respectfully Sheweth

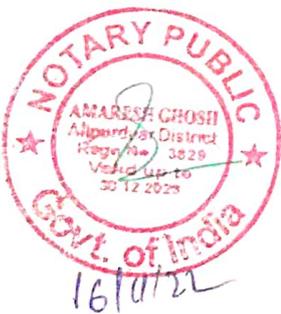
I, Dilip Kumar Singh S/o Ram Singh, aged about 52 Years, by Religion- Hindu, by Occupation-Service, having office at Divisional Railway Manager/Alipurduar Jn./N.F.Railway do hereby solemnly affirm and declare as under: -

1 That I, in the capacity of Divisional Railway Manager, Alipurduar, North East Frontier Railways, Alipurduar, West Bengal, and as such, competent to file the present affidavit. I am fully conversant



with the facts of the case and hence, competent to depose and swear the present reply /additional affidavit as under:

2. That I have read a copy of the Affidavit filed on behalf of the respondent no. 3 and have understood the meanings, contents and purports thereof.
3. That, basing on the affidavit submitted by the Respondent No. 3., this Hon'ble Tribunal has passed order dated 29.09.2022 with some observation and recommendation thereof against the railway respondents. A copy of the order dated 29.09.2022 is annexed here with and marked as **Annexure R/1**.
4. That the deponent craves liberty to raise additional submission or file additional affidavit in case need arises during the course of arguments.
5. That, the Hon'ble Tribunal vide, order dated 29.09.2022, at para 10, has recommended the railway's initiation in some activities for reduction of the Air Pollution in the locality, however, in the same order has issued some directions required to be complied with.
6. Now, the Deponent begs to proceed to submit before the Hon'ble National Green Tribunal, Eastern Zone at Kolkata Bench of the initiations/measures taken by Railway for reduction of the Air Pollution in the locality in compliance of the directions mooted in



order dated 29.09.2022 by the Hon'ble Tribunal, Which may be read in the following in tabular form.

SN	Directions of Hon'ble Tribunal passed in order dated 29.09.2022 in OA. No.84 of 2022	Compliance and execution of the directions by railway.
a	<p>Dolomite laden Dumpers/ Tipplers from Bhutan to India (at Dalgaon Siding) are transported with Tarpaulin cover on it. However, to avoid any type of spillage/fugitive emission during transportation, it is recommended that mechanically open/closing type Dumpers may be used. Further, Concerned Dept./Administration should ensure to stop the Overloading of the Dumpers, if any. A weigh bridge and the CCTV may be installed at the entry of the Railway siding, and the server of the weigh bridge and the CCTV may be connected to the concerned District Administration.</p>	<p>Trucks carrying dolomite are being covered by Tarpaulin. These are also being carried in wet condition to avoid any type of spillage/ fugitive emission during transportation.</p> <p>CCTV camera has already been installed. Recording of which could be seen by concerned authority.</p> <p>Weight particulars of the loaded trucks are available with M/S BCPL.</p>
b	<p>The coverage of Dry Fog system was not sufficient to cover whole Wagon area. More Nos. of High-capacity Dry Fog system needs to install having larger coverage as per the wagon size/area. Water sprinkler/dry fog system should be installed at the unloading side also.</p>	<p>The whole area of loading line has been covered with water mist sprinkler system. To enhance the coverage of the spray areas over the loading zone, more nozzles are being installed for effective suppression of dust particles. It will be made functional by Feb'23. Approximate Cost of the work is Rs. 1,00,00,000/-</p>



16/11/22

SN	Directions of Hon'ble Tribunal passed in order dated 29.09.2022 in OA. No.84 of 2022	Compliance and execution of the directions by railway.
c	The haul roads should be cleaned on regular basis using Mechanical Sweeping method. Further, Truck mounted 'Mist Cannon' may be used on regular interval and during loading/unloading, plying of vehicles to suppress the dust emission on the vicinity.	Beside water being sprayed over the haul road and the whole siding regularly by the BCPL, Truck mounted water Mist cannon will also be provided by them. BCPL has assured to provide the same by Jan'23.
d	Tyre washing facility should be developed at exit gate of the Yard/Siding to avoid spillage/dust accumulation on road side through vehicles.	Tyre washing facility to be provided by M/S BCPL and they have assured to provide it within Dec'22.
e	Internal roads inside the Yard/Siding should be paved/concreted. This will be helpful during Mechanical Sweeping of the roads.	The work of construction of road is in progress, 250m road from Level Crossing has been constructed, the balance will be proposed for sanction in Railway Works Programme. It will be completed in 2023. Approximate cost of the road is Rs. 65,00,000/-
f	Wind breaking walls should be constructed (using Iron Sheets) up to a height of 25 ft. approx. or as per requirements. This will restrict the view from Outside of the Yard and also to avoid re-suspension & carryover of dust to villages.	Construction of 25 Ft. wall along the boundary of the siding with iron sheet involves an expenditure of approx. Rs. 2.5 Cr, which will be proposed in the works programme to NFR/HQ. Alternatively, Railway is searching agencies who can execute the work through commercial endorsement business policy.



16/4/22

PARA WISE REPLY

7. That, with regards to statement made in Para 1 to 4 of the affidavit filed on behalf of the respondent no. 3, The deponent begs to admit to the statements since, as Per direction of the Hon'ble Tribunal, the State Pollution Control Board has conducted inspection of the railway Siding through the Committee constituted in this regard on 01.09.2022 and 02.09.2022 and submitted the report before the Hon'ble Tribunal through affidavit dated 28.09.2022. A copy of the affidavit was also received by the deponent. As such, the contentions are now, been matter of record before the Hon'ble Tribunal for adjudication hence, avoided further repetition of the same.

8. That, with regard to statement made in para 5 & 6 of the affidavit filed by the respondent no.3, the answering deponent begs to submit that, the directions of the Hon'ble Tribunal passed in order dated 29.09.2022 were issued after hearing the Committee Report of the State Board and compliance of the Hon'ble Tribunal's directions has already been initiated by the railway authority with the target dates for fully being Complied and operative. The measures and initiations of the railway for compliance of the directions of Hon'ble Tribunal are categorically mentioned in foregoing para- 6 of this additional affidavit. Hence, railway is very much prompt to take necessary effective measures to mitigate the pollution at the locality of the siding as per the suggestion of the concerned State Board and sumptuously been read with the Hon'ble Tribunal's directions.

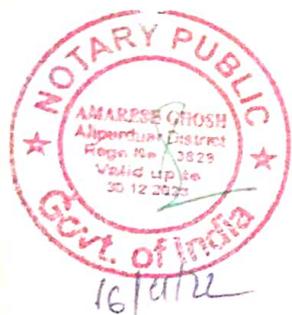


9. That, with regard to statement made in para 7 & 8, the deponent begs to submit that, as the Dalgaon railway siding since being incepted long before the year 1976 and had not rules count prescribed for obtaining CTO for operating the railway siding. Railway has already applied for CTO by depositing required statutory fee in the concerned State Board for continuing operation of Dalgaon siding prospectively. Further, in regard to State Board's letter dated 07.07.2022 & 04.08.2022, it is to submit that railway has already filed the counter affidavit to the OA, inter alia depicting the initiation and measure taken by the railway to combat air pollution in the locality of Dalgaon siding.

10. The statements made in paragraphs 1 to 5 are true to my knowledge and those made in paragraphs No. 5 are my respectful submissions before this Hon'ble Tribunal.

11. In the premises above, it is most respectfully Prayed that, your Hon'ble Tribunal would graciously be pleased to pass such order/orders as it deem fit and proper in the end of the justice.

12. The statements made in paragraphs...to...are true to my knowledge and those made in paragraphs no...are my respectful submissions before this Hon'ble Tribunal justice.



Dilip Kumar Singh

मंड **DEPONENT**
 Jivl. Railway Manager
 १० सी० रेलवे / N.F. Railway
 गिकरद्वार जं / Alinourduar Jn

VERIFICATION

I, Dilip Kumar Singh, aged about 52 Years, by Religion-Hindu, by Occupation-Service, having office at Divisional Railway Manager/Alipurduar Jn. /N. F. Railway, the above-named deponent do hereby verify that, the contents of the above affidavit are true and correct to my knowledge based on official records, no part of it is false and nothing material has been concealed there from.

Signed and verified on this 16th Day of November, 2022 at Kolkata.

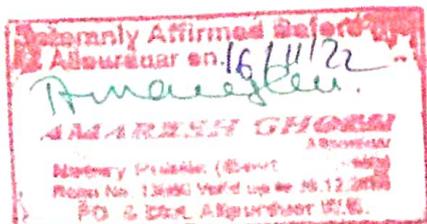
Dilip Kumar Singh

DEPONENT

Divl. Railway Manager
एन सी रेल्वे / N.F. Railway
बिक्रमद्वार जं / Alipurduar Jn

Identified by Me

[Signature]
16.11.22
Advocate



Item No.07

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No.84/2022/EZ

T. V. George

Applicant(s)

Versus

The Chairman, Railway Board,
Ministry of Railways & Ors.

Respondent(s)

Date of hearing: 29.09.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) : Mr. T.V. George, in person (in Virtual Mode)

For Respondent(s): Mr. Rajib Ray, Advocate for State of W.B. (in Virtual Mode)
Mr. Dipanjan Ghosh, Advocate for R-3,
Mr. Ashok Prasad, Advocate Ministry of Railways,
Mr. Surendra Kumar, Advocate for CPCB,

ORDER

1. Mr. T.V. George, the Applicant in person, is present (in Virtual Mode).
2. Affidavit dated 28.09.2022 has been filed on behalf of the Respondent No.3, West Bengal Pollution Control Board; the same is taken on record.
3. Along with the affidavit, an Inspection Report of an inspection carried out on 1st - 2nd September, 2022, by the Committee constituted by the Tribunal has been filed. The Observation and Recommendations of the Report read as under:-

“Observation:

1. *During inspection on 1st -2nd September 2022, frequent light Rain Shower (Drizzling) was occurred and thus the storage of Dolomite, work place and adjacent area was already in wet/moist condition.*

2. *During inspection, loading & unloading activities were going on. It was observed that dolomite was entering into the siding through Tipplers (Dumper-Truck) which were covered with tarpaulins. The tipplers were further proceeding to water sprinkler section where after uncovering of the tarpaulin; dolomite was being moist using water. As informed, this will be helpful to minimize the fugitive emission caused during material unloading from tipplers. As per the data provided by NF Railway, 1.5 Rake (approx. avg.) is loaded on daily basis.*
3. *Further as per the demand & requirement, the dolomite is sent to concerned Industries/Steel Plants via Rail Transport. The Open type Wagons (Box N, BCN, BOST type) are being used for Dolomite Transportation. The dolomite is loaded into Wagons, using Hydra/Payloader. During inspection as observed, Railway Dept. has installed fixed type Mist Sprayer system along the Railway track. During loading of the material, Dry Fog system operated to minimize the fugitive emission. As observed the Fog/Mist was not sufficient to cover the Wagon area. However, there was no visible fugitive emission observed as the whole material was already in moist condition due to frequent raining.*
4. *It was informed by the NF Railway authorities that this water sprinkler system started operating from the day of inspection itself i.e., 01.09.2022. However, this was observed to be used only for wagon loading activities. No water sprinkling/dry fog system was found at unloading side. Thick layer of deposition of dolomite dust was observed on the haul road. Mobile water sprinkler tankers were being used to minimize the road dust only during plying of Dumpers/Vehicles.*
5. *At the southern side of the railway siding, habitat/hutment was observed within 50m from the working zone i.e. railway track. It was reported by the Railway authorities that these habitats are the Encroachment within the railway boundary limit. Further after the railway boundary, Tea Garden is situated. On the Northern side of the Railway siding habitat/commercial activities/temple/hospital etc. was observed approximately 250 m distance from the working zone.*

6. *The inspecting team also interacted with few residents of adjacent area specifically the Habitat (Encroached area). As informed by them, the Railway Dept. is continuously using mobile type water sprinkler for road dust suppression in & around of the Siding area. However, few residents informed that Sprinkling is not sufficient and often caused fugitive emission in the vicinity. Further, it was understood that most of the Residents of Encroached area are directly/indirectly involved in the Loading/Unloading and Railway Siding related activities.*
7. *On the Southern side of the Railway Siding, them also visited Dalgaon Tea Estate (Crow fly distance 3 km approx.) and interacted with labours. As informed by them, they had never observed any dust accumulation, emission around the Estate due to Dolomite loading/unloading activities at Dalgaon Railway siding.*
8. *As observed, the Water tankers are continuously sprinkling the water on Haul Road and adjacent areas to suppress the dust. The excess water was flowing towards Hutment (Southern side) and finally going to Tea Estate land.*
9. *As per the direction of Hon'ble NGT, the team also visited the proposed Railway Siding site namely at Mujnai area. The Railway Dept. has 2 nos. of options (i.e. near Mujnai village or at Mujnai Railway Station) to develop the Railway Siding depending upon the availability of Land and necessary permissions of concerned Departments. The Mujnai area is located nearby the NH-317. The proposal is pending and under process with Railway Dept.*
10. *No Ambient Air Quality Monitoring measures installed by the Railway authority. However, the Railway Dept. has initiated the process regarding procurement of one no. of Ambient Air Quality Monitoring (AAQMO station, namely, Smart Environment Monitoring System on real time). As informed, the Bid regarding the procurement will be opened on 10th September 2022. This monitoring system will be installed at Dalgaon Railway siding to monitor the Air Quality status. This AAQM will be connected with WBPCB Server for data sharing.*

As per the direction of Hon'ble NGT, to assess the air quality, Ambient Air Quality Monitoring was carried out at three strategic locations. Results are as following:

S No.	Location	PM ₁₀ (µg/m ³)	PM _{2.5} (µg/m ³)	SO ₂	NO ₂
1	L1:- House of Mr. Dinesh Kumar Barma, Railway Staff Qtr. No.E/54, south-East side of the railway siding at 100m distance from the working zone GPS location:26°42'48",89°8'19"	65.71	36.28	<4.0	16.67
2	L2: House of Mr. Narendra Giri, Railway Qtr. No.E/45, Northern side of the railway siding, at 100m distance from the working zone GPS location: 26°42'55", 89°8'12"	80.70	31.70	5.10	19.40
3	L3:-Vacant railway Qtr. GPS location:26°42'55", 89°8'8", North-West side of the railway siding, at more than 150m distance from the working zone	59.20	16.80	4.40	15.0
	NAAQ Standard:- Gazette Notification No-B-29016/20/90/PCI-I, dated 18 th November, 2009	100	60	80	80

Status of Consent to Operate (CTO): The Dalgaon Railway Siding is operating without CTO. They have applied for it on 16.06.2022. WBPCB has issued a letter to the Railway authority on 07/07/2022 asking them to submit a detailed action taken report on the steps they took to combat air pollution. Also a direction was issued to them on 04/08/2022 to submit compliance report. The Railway Dept. should take necessary actions as per the direction of WBPCB & submit the Compliance report to WBPCB at the earliest to obtain CTO.

Recommendations:

The Railway Dept. has initiated some activities for reduction of the Air Pollution in the locality. However following directions (a-i) are required to be complied.

- a. Dolomite laden Dumpers/ Tipplers from Bhutan to India (at Dalgaon Siding) are transported with Tarpaulin cover on it. However, to avoid any type of spillage/ fugitive emission during transportation, it is recommended that mechanically open/closing type Dumpers may be used. Further, Concerned Dept./ Administration should ensure to stop the Overloading of the Dumpers, if any. A weighbridge and the CCTV may be installed at the entry of the Railway Siding, and the server of the weighbridge and the CCTV may be connected to the concerned District Administration.
- b. The coverage of Dry Fog system was not sufficient to cover whole Wagon area. More nos. of High-capacity Dry fog system needs to install having larger coverage as per the Wagon size/ area. Water sprinkler/ dry fog system should be installed at the unloading side also.
- c. The haul roads should be cleaned on regular basis using Mechanical Sweeping method. Further, Truck mounted 'Mist Cannon' may be used on regular interval and during Loading/ Unloading, plying of vehicles to suppress the dust emission in the vicinity.
- d. Tyre washing facility should be developed at exit gate of the Yard/ Siding to avoid spillage/ dust accumulation on road side through Vehicles.
- e. Internal roads inside the Yard/ Siding should be Paved/ concreted. This will be helpful during Mechanical Sweeping of the roads.
- f. Wind breaking walls should be constructed (using Iron Sheets) upto a height of 25 ft. approx.. or as per requirements. This will restrict the view from Outside of the Yard and also to avoid re-suspension & carryover of dust to villages.
- g. The procurement of 1 No. of Ambient Air Quality Monitoring (AAQM) equipment (namely Smart Environment Monitoring

System on real time) is already in process. However, till completion of Procurement/ Installation process, Railway Dept. may be directed to submit the Ambient Air Quality report (carried out by NABL Accredited & Authorized laboratories) to WBPCB and other concerned dept. on fortnightly basis.

- h. A garland drain should be constructed at the periphery of Dalgaon railway siding. Storm water collected from the garland drain should be treated in primary settling tank and may be reused for sprinkling purpose for suppression of Dolomite dust.
- i. Green belt should be developed around the Yard/ Siding facility.

As mentioned in the Observation, there was frequent rain during Monitoring and thus may be the possible reasons for lower values of PM₁₀, PM_{2.5}. Inspection & Monitoring may again be carried out in post-Monsoon season (November/December) to assess the Air Quality more accurately. Also the compliances to the directions as recommended by the Committee constituted by the Hon'ble NGT may also be verified during post-Monsoon inspection. The Committee may be in a position then only to comment on necessity to shift the existing location."

4. In the Inspection Report, it is stated that no Ambient Air Quality Monitoring measures have been installed by the Railway Authority. It is also stated that the air quality reports have been done during the monsoon period which as a consequence is showing a lower figure. It is further stated that Consent to Operate has not been obtained by the Railways and they are operating without a valid Consent to Operate.
5. We, therefore, direct the West Bengal Pollution Control Board, Respondent No.3, to file a fresh affidavit bringing on record the air quality report of post monsoon and also compute Environmental Compensation for environmental violations.
6. Mr. T. V. George, the Applicant in person, states that he received the copy of the affidavit dated 28.09.2022 only yesterday and

prays for and is granted two weeks time for filing rejoinder affidavit, if any, to the same.

- 7. We find that the Railway Respondents have not filed their counter-affidavit till date.
- 8. Mr. Ashok Prasad, learned Counsel appearing for the Railway Respondents, prays for and is granted two weeks time for filing counter-affidavit as well as reply, if any, to the affidavit dated 28.09.2022 filed by the Respondent No.3 on behalf of the said Respondents.
- 9. Mr. Rajib Ray, learned Counsel appearing (in Virtual Mode) for the State of West Bengal, states that the State Respondents do not want to file any separate affidavit and will adopt the averments of the affidavit filed by the Respondent No.3, West Bengal Pollution Control Board.
- 10. **List on 24.11.2022.**

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B. Amit Sthalekar, JM

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Saibal Dasgupta, EM

September 29, 2022,
Original Application No.84/2022/EZ
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