

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING

AT PUNE

ORIGINAL APPLICATION NO. 80 OF 2024

IN THE MATTER BETWEEN :

Scheduled Tribe Association and Ors)... Applicants

Versus

Goa State Pollution Control Board and Ors)... Respondents

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PETITIONERS****INDEX**

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AFFIDAVIT IN REJOINDER

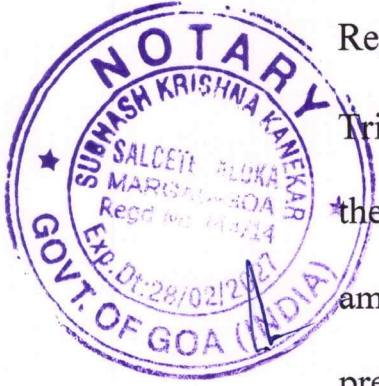
I, Suraj Naik, the President of the Ralloi Residents Welfare Association residing at H. No. 754, Ralloi, San Jose De Areal, Salcete, Goa-403709 the Applicant No. 3 herein, do hereby solemnly affirm and declare as under:

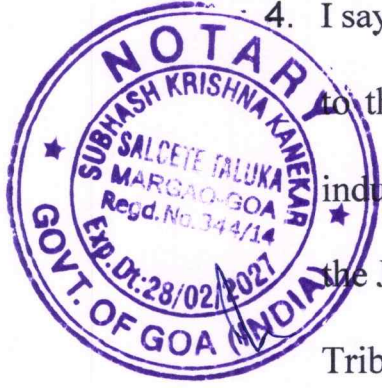
1. I say that I have read the present Application and am conversant with its contents. I have also read a copy of the Affidavit in

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Reply of the Respondent No. 4 dated 18.09.2024 as well as the Report of the Joint Committee appointed by this Hon'ble Tribunal, and that I was present at the time of the inspection by the Joint Committee appointed by this Hon'ble Tribunal, thus I am competent to depose on behalf of the Applicants in the present Affidavit in Rejoinder.

2. At the outset I say that I deny each and every averment, contention, allegation and/or submission made by the Respondent 4 in its Affidavit in Reply and Affidavit of Compliance dated 18.09.2024 (hereinafter referred to as the "Affidavits"). Nothing should be deemed to have been admitted by me for lack of specific denial unless the same is specifically admitted by me hereinafter.
3. I say that I am filing the present Affidavit in Rejoinder as a combined response to the report of the Joint Committee as well as the Affidavit in Rejoinder and Affidavit in Compliance of the Respondent No. 4



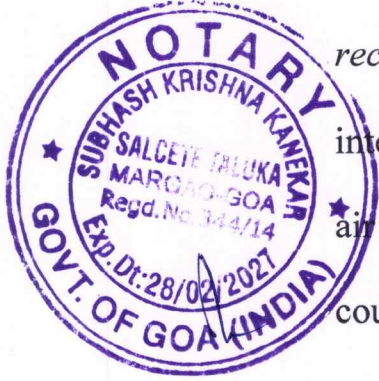
RESPONSE TO THE JOINT COMMITTEE REPORT

4. I say that the Applicants wish to put forth their strong objections to the manner in which the inspection was conducted of the industrial premises of the Respondent No. 4 on 28.05.2024 by the Joint Committee constituted as per the order of this Hon'ble Tribunal. I say that the report itself records that villagers were sought to be prevented from participating in the inspection at the beginning and only after their insistence that they be allowed to participate were the villagers allowed to enter the premises of the Respondent no. 4.

5. I say that at page 7 of the Report, the grievances of the villagers of Sao Jose De Areal who were present during the inspection is recorded, in as much as the villagers pointed out that material handling normally done at the plant of the Respondent No. 4 was not taking place at the time of the inspection, neither was the plant fully operational. While the report recorded the concerns of the Applicants, the Committee has sought to gloss over these concerns by recording inadequate steps to address the concerns of the said villagers. The Committee has stated things

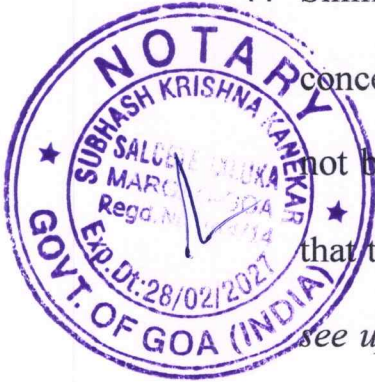
like "raw material handling happens only as per shipment received at Mormugao Port" without addressing the obvious intent of the grievance raised by the villagers, which is that the air pollution which occurs during the material handling phase could not have been assessed on that particular date as there was no material handling taking place. It is pertinent to note that the loaded vehicle that brings RPC in and out of the Respondent No. 4 was sent back earlier that day by the Respondent No. 4 so that the loading and unloading of the vehicle could not be observed by the Joint Committee, and this was noted by our villagers outside the factory. The truck was sent back because the carbon dust pollution is clearly seen when unloading is done. Photos of the truck outside the gate of the factory on the date of the inspection before it turned and went away has been annexed hereto and marked as **Annexure A -1**

6. The Report also incorrectly states that no labourers were present. I say that this statement is incorrect since there are many labourers residing at the factory site, and who were present outside the factory gate at the time of the inspection, and also since they are needed for unloading, loading, etc



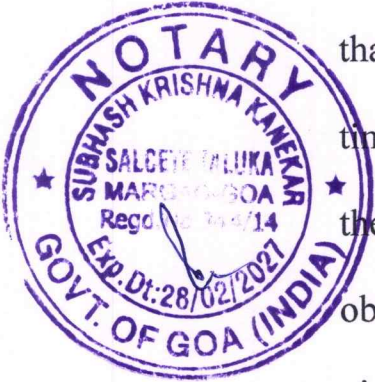
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7. Similarly, the Joint Committee report glossed over the other concerns of the villagers regarding part of the plant deliberately not being in operation at the time of the inspection by stating that the villagers were taken to whichever “*desired location to see upto his satisfaction*”. I say that the statement of the Joint Committee does not confirm or deny the grievances of the villagers that portions of the plant were not in operation during the site inspection, and therefore would imply that the true nature of the pollution caused in the fully functional plant could not be assessed at the time of the inspection. It was noted by the undersigned and other villagers present that the entire initial process of material handling and transportation of the raw material by conveyors was shut down for the duration of the inspection. It was observed that the conveyor belts were not fully covered, and when questioned the employees responded that the conveyor belts could not be closed fully in order to maintain temperature. The actual pollution caused by the conveyor belts could not be observed as many of the conveyors were not working.



8. I say that I strongly deny the statement at page 7 of the report that the villagers agreed that the plant was in operation at the time of inspection. I say that I and other villagers who entered the premises at the time of the inspection of the Joint Committee observed that most of the employees at the factory had been given a holiday on the date of the site inspection, and it has also been observed that the operation of the plant of the Respondent No. 4 had been stopped or greatly reduced three days prior to the site inspection. Further, smoke was seen coming out of the chimney at the time of the inspection. No equipment was brought by the Joint Committee to check air quality or any other measures. Air monitoring machine was also not brought or used at anytime during the inspection. There were no measurements or readings taken at all and no measuring or recording equipment was used during the inspection.

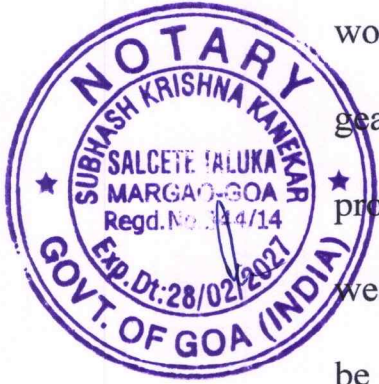
9. Further, the villagers were taken to show a presentation for more than an hour which did not demonstrate any technical working data about the factory. There was emphasis laid except about the health of the workers of the Respondent No. 4 saying that their workers are good in health, but the Applicants wish to



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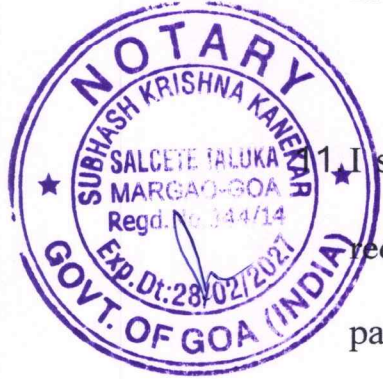
bring to the attention of this Hon'ble Tribunal that workers working within the Respondent No. 4 are equipped with safety gear and material, while handling the RPC and finished products. The villagers of Sao Jose de Areal are however not wearing industrial grade safety equipment or attire, and cannot be expected to. The Applicants also submit that it cannot be ignored by this Hon'ble Tribunal that individuals on the payroll of the Respondent No. 4 cannot be trusted as persons who can honestly assess the conduct and air pollution caused by the Respondent No. 4.

10. I say that at the time of the inspection, the factory was in a semi-operational mode and was kept clean in such a way that made it evident that the Respondent No. 4 knew the inspection was going to happen in advance and had prepared itself to make sure that additional efforts were taken to curb the level of pollution generated by the Respondent No. 4. I say that the manner in which the Respondent No. 4 conducted its operations on the date of the inspection is not the normal in which it operates and the Joint Inspection Report does not portray an accurate picture



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of the reality of what living in the area in proximity to the factory of the Respondent No. 4 is really like.



1. I say that despite the preparation of the Respondent No. 4 to reduce the pollutants evident at the time, I say that black particles were clearly present and visible to the naked eye in the air, on the ground, on equipment, on the walls, and on the roads in and around the factory. Even the place where the final product was being stored was completely polluted with black dust particles, which is admitted in the Joint Committee's recommendations. The villagers pointed the presence of black particles everywhere to the Director of the Department of Environment and Climate Change (the nominee of the Chief Secretary of the Goa Government), who replied that the black particles are not necessarily Carbon dust, unless confirmed via an Air monitoring machine. It is most pertinent that there was no Air monitoring machine used to verify the composition of the black particles seen everywhere. Google earth images from 2019 to 2024 showing persistent darkness of the image of the factory and surrounding area, clearly proving heavy pollution by carbon particles and fly ash, and also showing a large

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uncovered dump of RPC kept uncovered in the yard throughout

A 5-year period have been annexed hereto and marked as

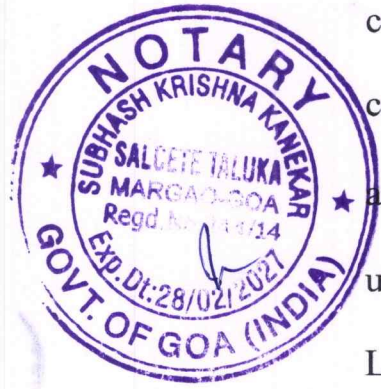
Annexure A-2.

12. Throughout the inspection, the villagers felt ignored and not taken seriously. The villagers were not allowed to use their mobiles nor click photographs during the inspection. The representative of the Respondent MoEFCC was normally quiet and did not participate actively in the inspection.

13. The villagers also raised a query to the employees about the thick plumes of noxious smoke arising from the chimney of the Respondent No. 4. The workers of the Respondent No. 4 replied that such smoke is emitted only when they start the factory or if there is a problem with the factory machine. It is submitted that if the submission of the workmen is true, that is a cause of great concern as the villagers observe these noxious emissions every night.

14. Also, the villagers observed that the conveyor belts were not fully covered and when they asked the employees why the

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conveyor belts are not covered they were told that the conveyors could not be covered since the product needed to be maintained at certain temperatures. It is subsequently researched and understood from a publication of Bharat Petroleum Corporation Ltd., Kochi Refinery entitled "Safety Data Sheet of Petroleum Coke" that petcoke "*in storage piles may ignite spontaneously. Material may ignite spontaneously. Dust may form explosive mixtures with air.*" Incidentally, this document also lists some of the health hazards of petcoke exposure. A copy of the publication of Bharat Petroleum Corporation Ltd., Kochi Refinery entitled "*Safety Data Sheet of Petroleum Coke*" is annexed hereto and marked as **Annexure A -3**.

15. After the inspection was over the committee without informing us visited one the villagers house, but did not seek to include the villagers, and since the villagers were travelling home in the same direction they observed that some inspections were being undertaken. No roads, nor any other houses if any were inspected in the presence of the villagers, and the villagers do not accept the observations about there being no carbon particles, black powder or ash observed in the houses of the

villagers. It is emphatically stated that the black powder and ash enters houses, agricultural lands, water resources, food, and human bodies. Photographs of leaves of plants and other areas covered with carbon dust are annexed hereto and marked as

Annexure A-4.



16. No documents were shown to the villagers nor was any technical documentation produced to the villagers or explained to us before the beginning of the inspection. Everything seemed to be planned and coordinated with the Respondent No.4.

17. With regards to the visits of the houses within 1 km radius of the plant, I say that:

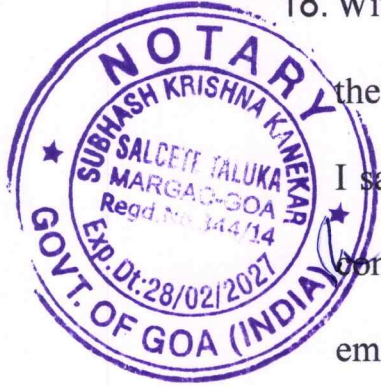
- a. Despite the repeated requests of the villagers, the church and school premises which are located in the close proximity (within 200m) of the premises of the plant of the Respondent No. 4 was not visited
- b. The cultivable agricultural land in and around the premises of the plant of the Respondent No. 4 was not visited by the Joint Committee despite the requests of the villagers

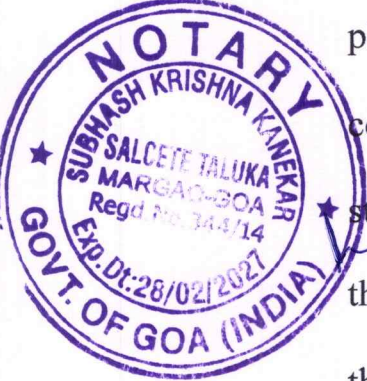
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18. With regards to the table of conditions noted in the CTOs and the compliance thereof recorded at pages 11 to 29 of the report, I say that the Joint Committee has inexplicably stated that the condition in the CTO regarding the maximum permissible emission levels has been complied with, when in the preceding entry of the table at sr no 6 it is admitted that within a 5 month period between January to May 2024 there had been an incident when the emission values were noted as exceeding the maximum permissible limit.

19. Similarly at entry 23 of the aforementioned table, the Joint Committee has evidently noted that the Respondent No. 4 has plainly and clearly refused to comply with the directions mentioned within the CTO in relation to ensure that the storage of the raw material be fully covered by stating it was not possible to keep the storage shed for the raw material completely closed.

20. While noting the "scope for improvement" the recommendations of the Joint Committee refer to very serious





issues and concerning neglect and flaws in the operation of the plant by the Respondent No. 4, including the uncovered conveyor belt, inadequate sprinklers at the material handling stations, the overall housekeeping of the plant etc, which as per the submission of the Applicants, should result in the closing of the operation of the plant of the Respondent No. 4. Instead, the Joint Committee has out forth recommendations in an innocuous manner that the Respondent No. 4 is expected to comply with, instead of suggesting that strict action be taken against the Respondent No. 4 for its admitted acts of default in terms of the conditions of the CTO it is not complying with as well as evident negligence and tardiness in the operation of its plant which could not be denied at the time of the joint inspection.

21. I say that I have addressed, in greater detail, the non-compliance of the recommendations of the Joint Committee while addressing the Affidavit of Compliance of the Respondent No. 4 in this affidavit.



22. I say that the complaint of the Applicants regarding the thick plumes of smoke being emitted from the factory premises at night had been completely ignored by the Joint Committee

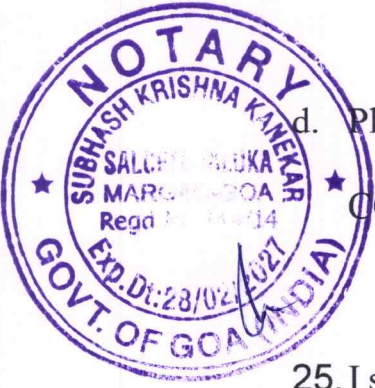


AFFIDAVIT OF COMPLIANCE OF THE
RESPONDENT NO. 4

23. The report of the Joint Committee made 8 recommendations as to actions the Respondent No. 4 should take in order to improve the “environmental compliance” of the Respondent No. 4.

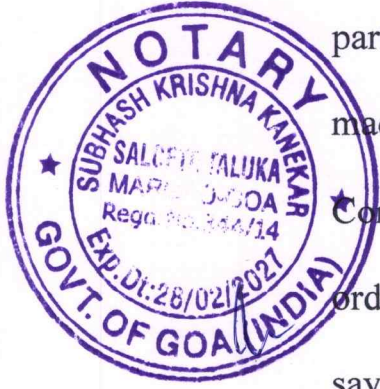
24. Recommendations Nos 1-4 pertaining to the Respondent No. 4 cleaning its industrial unit and plant properly with a view to reduce fugitive dust and air pollutants emanating from the Respondent No. 4. As against each of the said recommendations, the Respondent No. 4 has stated in its affidavit of Compliance that it has allegedly:

- a. Adopted some mechanised process of sweeping
- b. Trained its housekeeping staff
- c. Hired a contractor to remove spillage of RPC and CPC



d. Placed its housekeeping and spillage cleaning activities under CCTV surveillance

25. I say that the Applicants and other villagers of Sao Jose de Areal take no solace from these commitments and statements made by the Respondent No. 4 in its Compliance Affidavit. I say that the statements made in the Compliance affidavit of the Respondent No. 4 record the bare minimum that the Respondent No. 4 should have been doing since the inception of its plant. There is no excuse for the housekeeping of the plant being inadequate, as the fugitive emissions constitute the biggest threat to the public and the citizens of the village. The spillage of RPC and CPC is unacceptable. The open, uncovered conveyor belt and storage shed of raw material and poor maintenance of the plant observed by the Respondent No. 4 shows the neglect of the Respondent No. 4 towards the issue of the pollution it generates. I say that the Respondent No. 4 has failed to demonstrate any consciousness about how RPC and CPC are dangerous to human health, and has evidently neglected to enforce basic techniques such as looking into its housekeeping to mitigate the air pollution it generates in its plant. I say that this neglect is



particularly egregious, in light of the continuous complaints made by the villagers, the various conditions imposed through Consents to Operate issued to the Respondent No. 4 and the order of the Goa State Human Rights Commissioner. I further say that it is pertinent to note that the villagers have not observed any change or reduction in the pollution caused by the operation of the Respondent No. 4 since the inspection was conducted by the Joint Committee and the Applicants and other aggrieved villagers have no way of verifying the truth behind the statements made in the affidavit of Compliance of the Respondent no. 4.

26. I further say that the Joint Committee also recommended that the conveyor belt needs to be frequently checked and must be entirely closed. I say that this indicates that the conveyor belt was previously not fully closed, leaving room for particulate matter to escape out of the plant and pollute the neighbouring village and reduce the air quality of the area. The Respondent No. 4 has claimed that it has now replaced the covers of the conveyor belt, however the plant of the Respondent No. 4 should never have operated without fully closed conveyor belts.

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I also state that the Applicants and other aggrieved villagers have no way of verifying the truth behind the statements made in the affidavit of Compliance of the Respondent no. 4 in relation to the covered conveyor belt.



27. In relation to recommendation no 6 of the Joint Committee, I say that the Joint Committee has recommended that "*lighting and ventilation needs to be provided in the product bagging shed in order to improve performance*". I say that against this recommendation, the Respondent No. 4 has only stated that it has installed LED lights at various parts of the plant including the product handling shed. There is nothing mentioned about the increase of ventilation.

28. Recommendation no 7 of the Joint Committee pertained to the installation of additional mist sprinklers and the periphery of the raw material storage shed and the product bagging shed. While the Respondent No. 4 has stated such sprinklers have been installed, the villagers have not reduced any difference in the volume of particulate matter, dust and carbon particles that

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accumulate in the village and the roads since the time of the joint inspection of the committee.

29. As for the Recommendation No. 8 of the Joint Committee to install a large screen and ambient air quality monitoring station at the local school located next to the Respondent No. 4, no such board has been installed and only one letter had been written to the school by the Respondent No. 4 on this issue. It is submitted that a daily reading of the ambient air quality for the village as well as the Respondent No. 4 to see daily and track publicly would result in some accountability in the manner in which the Respondent No. 4 would operate, but the said screen and ambient air quality monitoring station has deliberately not been installed till date.

30. It is pertinent to note that 6 monthly inspections of the unit of the Respondent No. 4 as recommended by the Goa State Pollution Control Board in its comments dated 21.02.2024 submitted to the Goa Human Rights Commission also have not been conducted to the knowledge of the Applicants.

**AFFIDAVIT IN REPLY OF THE RESPONDENT****NO. 4**

31. In relation to the Affidavit in Reply of the Respondent No. 4, I say that for the sake of brevity and cohesiveness, I am not providing a para-wise response to the Affidavit in Reply of the Respondent No. 4, but am instead raising my averments and denials over the statements of the Respondent No. 4 in its affidavit against the main arguments raised by the Respondent No. 4.

32. I say that the Respondent No. 4 has challenged the maintainability of the present Application on the following grounds;

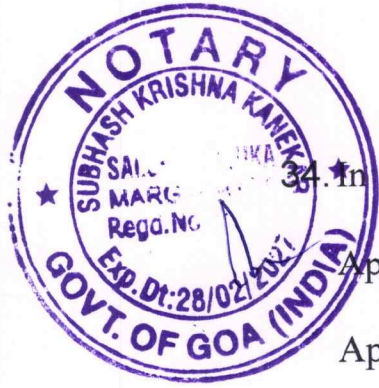
- a. A consent to operate should be challenged vide an appeal filed under Section 16 of the NGT Act, 2010
- b. The present Application is allegedly filed with delay, beyond the period of limitation under a Section 15 Application under the NGT Act, 2010
- c. The Respondent No. 4 does not wish to pay any compensation to the villagers of Sao Jose de Areal

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I say that the Applicants have clearly made out their case in the Original Application that they wish to have directions issued that the unit of the Respondent No. 4 be shifted out of its current location and be relocated to a place more suitable for such polluting and hazardous industrial activities. The Applicants are not challenging any Consent to Operate issued to the Respondent No. 4, but have brought on record breach of the conditions of the Consent to Operate in the Original Application, some of which have been confirmed by the Joint Committee report. The prayers of the Application make it clear that the Applicants have prayed that no further Consents be renewed or granted to the Respondent No. 4, and the prayers in the Original Application pertains to having the unit of the Respondent No. 4 permanently shifted out of the village of Sao Jose de Areal. It is denied therefore, that the Applicants should challenge each consent granted to the Respondent No. 4 under Section 16 of the NGT Act, 2010. It is also pertinent to note that the present Application was anyways filed prior to the issuance of the presently valid Consent to Operate being issued to the Respondent No. 4.

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34. In relation to the averment of limitation of the present Application, I repeat and reiterate that the cause of action for the Application started originated on 15.03.2022, when the inquiry report of the Goa State Human Rights Commission was prepared, as the said report served as the first finding of correlation between the harm caused to the health of the Applicants and the air pollution prevalent in the region. It is pertinent to note that the present application has been filed under Section 15 of the NGT Act, 2010 and the Applicants have sought relief and compensation as victims of pollution, and have further sought restitution of the environment of the village of Sao Jose De Areal. As such, the Applicants are well within the stipulated limitation period of 5 years under Section 15(3) of the NGT Act, 2010.

35. I further submit that the present cause of action occurs afresh on each day the toxic air pollution continues unabated and thereby putting the lives of the villagers of Sao Jose De Areal at risk. The Applicants therefore submit that the present cause of action is continuous cause of action and continues till today.



36. In its judgment in the matter of *The Forward Foundation & Anr. v/s State of Karnataka & Ors.* (07.05.2015 in OA No. 222 of 2014), this Hon'ble Tribunal held that,

"24. The expression 'cause of action' as normally understood in civil jurisprudence has to be examined with some distinction, while construing it in relation to the provisions of the NGT Act. Such 'cause of action' should essentially have nexus with the matters relating to environment. It should raise a substantial question of environment relating to the implementation of the statutes specified in Schedule I of the NGT Act. A 'cause of action' might arise during the chain of events, in establishment of a project but would not be construed as a 'cause of action' under the provisions of the Section 14 of the NGT Act, 2010 unless it has a direct nexus to environment or it gives rise to a substantial environmental dispute. For example, acquisition of land simplicitor or issuance of notification under the provisions of the land acquisition laws, would not be an event that would trigger the period of limitation under the provisions of the NGT Act, 'being cause of action first arose'. A dispute giving rise to a 'cause of action' must essentially be an environmental dispute

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and should relate to either one or more of the Acts stated in Schedule I to the NGT Act, 2010. If such dispute leading to 'cause of action' is alien to the question of environment or does not raise substantial question relating of environment, it would be incapable of triggering prescribed period of limitation under the NGT Act, 2010. [Ref Liverpool and London S.P. and I Asson. Ltd: v. M.V. Sea Success I and Anr., (2004) 9 SCC 512, J. Mehta v. Union of India, 2013 ALL (I) NGT REPORTER (2) Delhi, 106, Kehar Singh v. State of Haryana, 2013 ALL (I) NGT REPORTER (DELHI) 556, Goa Foundation v. Union of India, 2013 ALL (I) NGT REPORTER DELHI 234]. 25. In contradistinction to 'cause of action first arose', there could be 'continuing cause of action', 'recurring cause of action' or 'successive cause of action'. These diverse connotations with reference to cause of action are not synonymous. They certainly have a distinct and different meaning in law, 'Cause of action first arose' would refer to a definite point of time when requisite ingredients constituting that 'cause of action' were complete, providing applicant right to invoke the jurisdiction of the Court or the Tribunal. The Right to Sue' or 'right to take action' would be subsequent to an accrual of such right. The concept of

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continuing wrong which would be the foundation of continuous cause of action has been accepted by the Hon'ble Supreme Court in the case of Bal Krishna Savalram Pujari & Ors. v. Sh. Dayaneshwar Maharaj Sansthan & Ors., AIR 1959 SC 798. "

37. That the aforesaid *Forward Foundation Judgment* was challenged before the Hon'ble Supreme Court in the matter of *Mantri Techzone Pvt. Ltd. Vs. Forward Foundation*, Civil Appeal No. 5016/2016 reported in (2019) 18 SCC 494 has specifically held vide judgment dated 5th March, 2019 and has confirmed the said judgment of *Forward Foundation* and even the Review petition of the same has been dismissed vide order dated 06/08/2019 and has thus become final and binding.

38. I further say that as victims of pollutions, the headings under which the villagers of Sao Jose de Areal could claim compensation from the Respondent No. 4 are clearly stipulated within Schedule II of the NGT Act, 2010, the Applicants or the villagers are not interested in receiving a pay out from the Respondent No. 4, and their primary concern is to have the unit of the Respondent No. 4 shifted out of their village and into a

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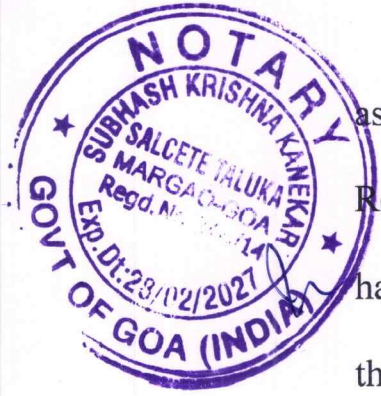
different location suitable for the operation of hazardous industries.

AVERMENTS ON MERITS

39. The Respondent No. 4 has sought to portray the averments made by the Applicants regarding the averments of the excessive air pollution from the stack emissions of its plant as being “highly exaggerated” and “completely false”

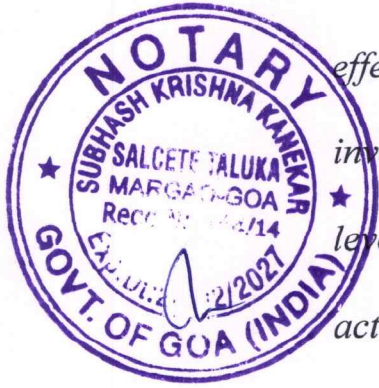
40. I say that at para 22, the Respondent No. 4 has conflated and mis-characterised the averments of the Applicants regarding National Ambient Air Quality Standards and stack emissions. I say that the Respondent No. 4 has conveniently overlooked the fact that excessive pollution in its stack emissions will invariably impact the ambient air quality in and around its factory, and it was for this reason why the Applicants raised the NAAQs in the averments in its Application. I say that the CTO that was applicable to the Respondent No. 4 at the time of filing the present Application required the Respondent to maintain its PM emissions within 150 mg/m³, which is presumably the same

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as the emission standards in the fresh CTO issued to the Respondent No. 4 on 03.04.2024, however the revised consent has not been brought on record by the Respondents, neither have the Applicants received a copy of the same despite submitting an RTI Application for the same on 06.06.2024. A copy of the RTI Application of the Applicants asking for any revised consent to operate issued by the Respondent No. 4 has been annexed hereto and marked as **Annexure A -5**

41. With regards to the averment of the Respondent No. 4 that the readings quoted by the Applicant showing the excessive emissions of Particulate Matter of the Respondent No. 4 it is submitted that the standard the Respondent No. 4 must hold itself to as per law is that it should never emit more than 150 mg/m³ of PM while its plant is operational. The percentage of time that its emissions are within the range, or the average of the emission is irrelevant in terms of the limits stipulated within the Consent to Operate. It is further submitted that the Joint Committee in its report itself has admitted that the excessive emissions were recorded even in March 2024, and therefore the averments of the Respondent No. 4 that it has, "*been able to*



effectively investigate and correct any anomaly by constantly investing and installing and repairing filters to reduce emission levels” or that it has “taken timely and immediate corrective action to address the same” is demonstrably false.

42. I further say that the tabular record of excessive emissions made by the Respondent No. 4 at para 29 of its affidavit shows that a “rupture” in the bag house required over 3 months to be noticed and replaced/repared. Notwithstanding the alleged repair of the said rupture, it is an admitted position that the stack emissions continue to exceed the permissible limits.

43. It is further pertinent to note that the warranty period of the fibreglass filter bags referred to at para 33 of the affidavit of the Respondent No. 4 last replaced on 30.05.2022 had already expired at the time of the Respondent No. 4 filing its affidavit as per the two-year warranty period referenced by the Respondent No. 4 at the same para 33 of its Affidavit, and only 58 bags had been replaced by July 2023. There is a confusing and unclear statement made at para 35 of all the filter bags being

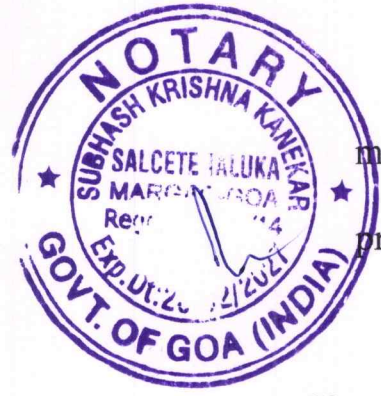
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replaced August to September of 2023, which contradicts the statements made at para 33 of the Affidavit.

44. In relation to the health issues and reports provided by the Applicants, I say that only one doctor in the vicinity of the village was willing to provide a written diagnosis for the villagers to be used in a court of law. The said Doctor is of excellent repute and is an ENT Surgeon practising for almost 4 decades. Dr Jorson Fernandes, MBBS, DORL (Diploma in Oto Rhino Laryngology), AIFH (Associate Fellowship in Industrial Health) is recognized by Factories and Boilers, is a member of St. John's Ambulance Association, and also conducts First Aid courses for factories in Goa.

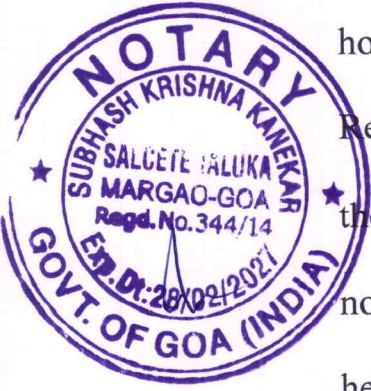
45. I say that diagnosis of allergies and respiratory issues recorded in the medical reports of the villagers is what, if continued for a longer period, will result in chronic and life-threatening conditions of asthma and other serious respiratory health issues. I say that it is incorrect for the Respondent No. 4 to expect the villagers to provide information about follow up visits and



medical attention in legal proceedings and the villagers can produce further information if required by the Hon'ble Tribunal.

46. I say that the averments of the cultivability of the agricultural fields raised by the Applicants is that the cultivability has *reduced* in the area and the consumption of fruits and vegetables grown in the proximity of the plant of the Respondent No. 4 has resulted in villagers falling sick and having increased symptoms of respiratory issues. I say that this is a fairly straightforward argument, and should not be difficult for Respondent No. 4 to understand.

47. In relation to the alleged health conditions of the employees of the Respondent No. 4, I repeat my submission that workers working within the Respondent No. 4 are equipped with safety gear and material, while handling the RPC and finished products. The villagers of Sao Jose de Areal are however not wearing industrial grade safety equipment or attire, and cannot be expected to. The Applicants also submit that it cannot be ignored by this Hon'ble Tribunal that individuals on the payroll of the Respondent No. 4 cannot be trusted as persons who can



honestly assess the conduct and air pollution caused by the Respondent No. 4. I say that the medical certificates annexed to the affidavit of the Respondent No. 4 are only 2 pages long with no particulars of the workmen/employees and their general health conditions or history provided.

48. I say that the Respondent No. 4 has also raised some vague contentions about the bonafides and credentials of the Applicants in its Affidavit, to which I say that, it is settled law that the term "any person aggrieved by" as referenced throughout the NGT Act, 2010 means that any person may raise environmental dispute irrespective of his being personally affected due to the act of wrongdoer/polluter or violation of environmental law/norms. I therefore say that the Applicants have the locus to file the present Application, and the Applicant no. 2 was the same collective of villagers that had filed the complaint in 2016 against Respondent No.4 before the Goa State Human Rights Commission ("GHRC"). I say the work of the Applicant societies in campaigning for the rights and safety of the villagers speaks for itself, and the Applicants can provide

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any further information regarding its bonafides if it is so directed by this Hon'ble Tribunal.

49. I say that it is pertinent for this Hon'ble Tribunal, that the Respondent No, 4 has not challenged the report of the GHRC in any legal forum, but has sought to state at para 68 of its affidavit that the GHRC has exceeded its jurisdiction by recommending that any consent to operate issued to the Respondent No. 4 only be valid for one year a time, a condition which the present consent to operate dated 03.04.2024 ostensibly violates as per the averments of the Respondent No. 4 itself.

50. I say that Respondent No. 4 has not addressed the core grievance of the Applicants, that an industry in the nature of the one run by the Respondent No.4 should not be operating in such close proximity to a residential area or a significantly populated village. The Respondent no. 4 is admittedly operating a red category industry in the close proximity of populous village, and has a long-chequered history of operating with the lapsed consent to operate, and of breaching the permissible limits of emissions as stipulated within the consents issued to it.

51. I therefore repeat and reiterate the submissions made in the Original Application and hereby reaffirms the position that the prayers in the Application deserve to be made absolute.



Solemnly affirmed at Mumbai)

Dated this 28th day of November 2024)

Suraj Naik
Deponent No. 3

Suraj Naik

(for Ralloi Residents Welfare Association)

Identified by me,

Satish Ramdas Kamble
H.No 754/A, Ralloi Colony.
Sao Jose De Areal

Advocates for the Petitioners

Before me



Solemnly affirmed before me by
Shri/Smt. Suraj Masle
Who is identified to me by Shri
Shri/Smt. Satish Ganndes Kamble
Who is personally known to me
this 28th day of Nov. 2024
Reg. No. 1796/2024

Handwritten signature
28/11/2024

SUBHASH KRISHNA KANEKAR
NOTARY
SALCETE TALUKA
STATE OF GOA (INDIA)

Handwritten notes:
110 52/A, Rallei colony
see doc of hand

1466

1436

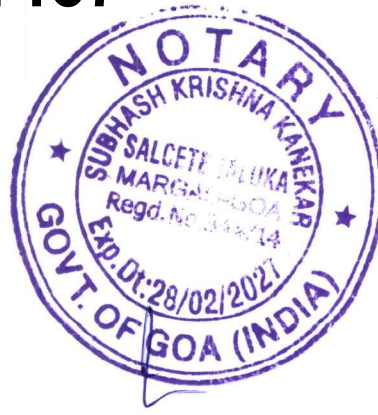
ANNEXURE A-1



PHOTOS OF TRUCK AT GOA CARBON FACTORY GATE DURING INSPECTION WHICH WAS TURNED BACK WITHOUT UNLOADING



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PHOTOS OF TRUCK AT GOA CARBON FACTORY GATE DURING INSPECTION WHICH WAS TURNED BACK WITHOUT UNLOADING

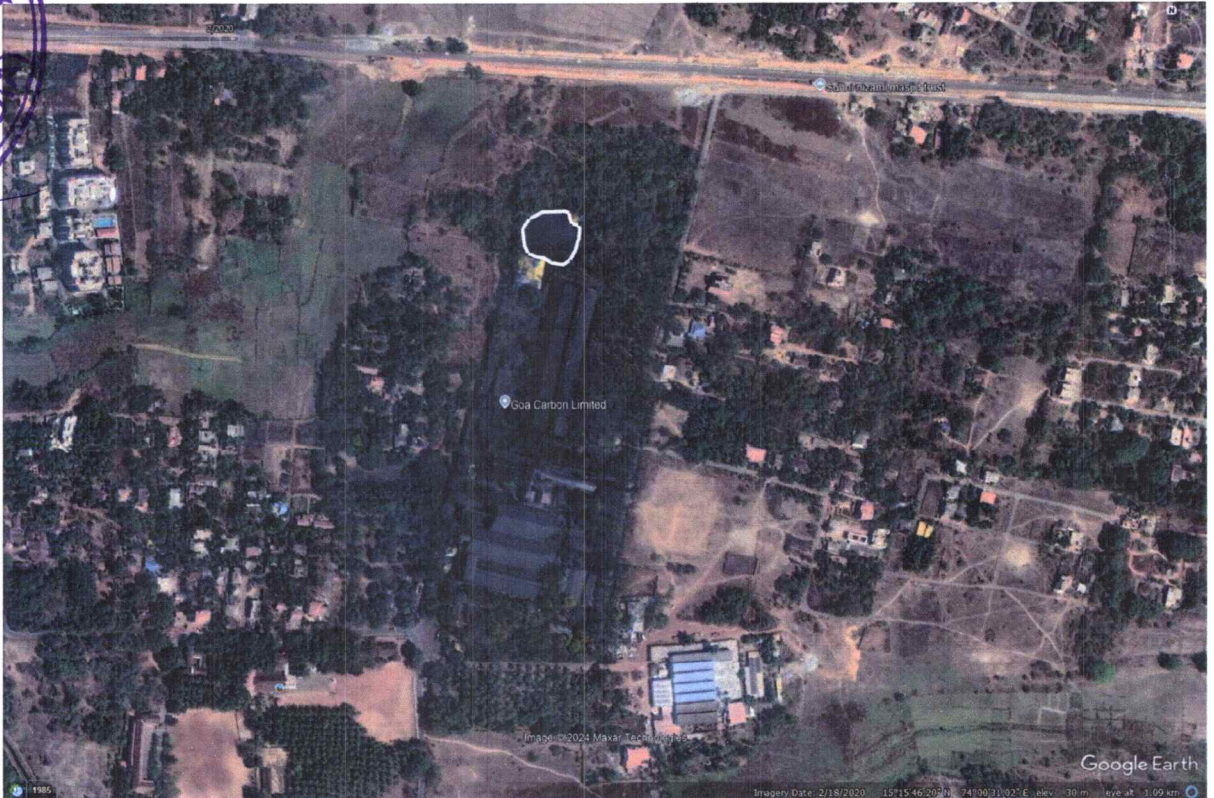


GOOGLE EARTH IMAGE OF 23.12.2022

Goa Carbon factory stands out as a dark patch of unmistakable pollution. Smoke is also seen spreading westwards from a height over a km above.

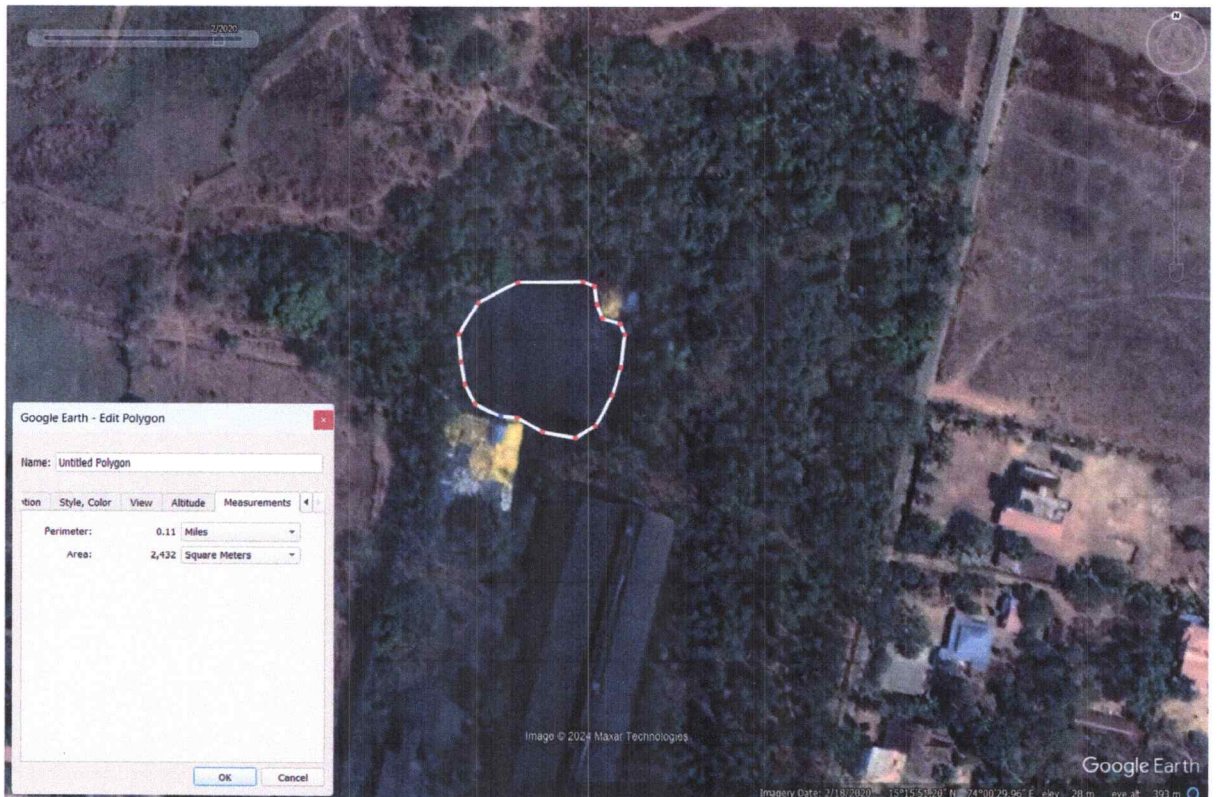


A large uncovered stack of RPC permanently remains uncovered in the open yard, all the time

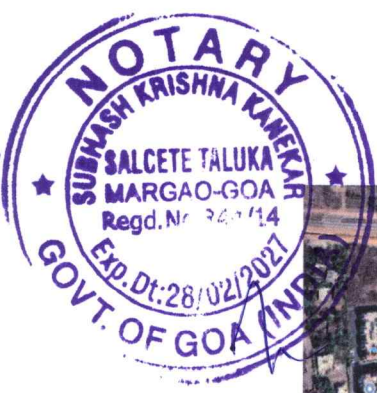


GOOGLE EARTH IMAGE OF 18.02.2020

Goa Carbon factory stands out as a dark patch of unmistakable pollution



The large uncovered stack of RPC which permanently remains uncovered in the open yard is over 2,400 sq meters in area



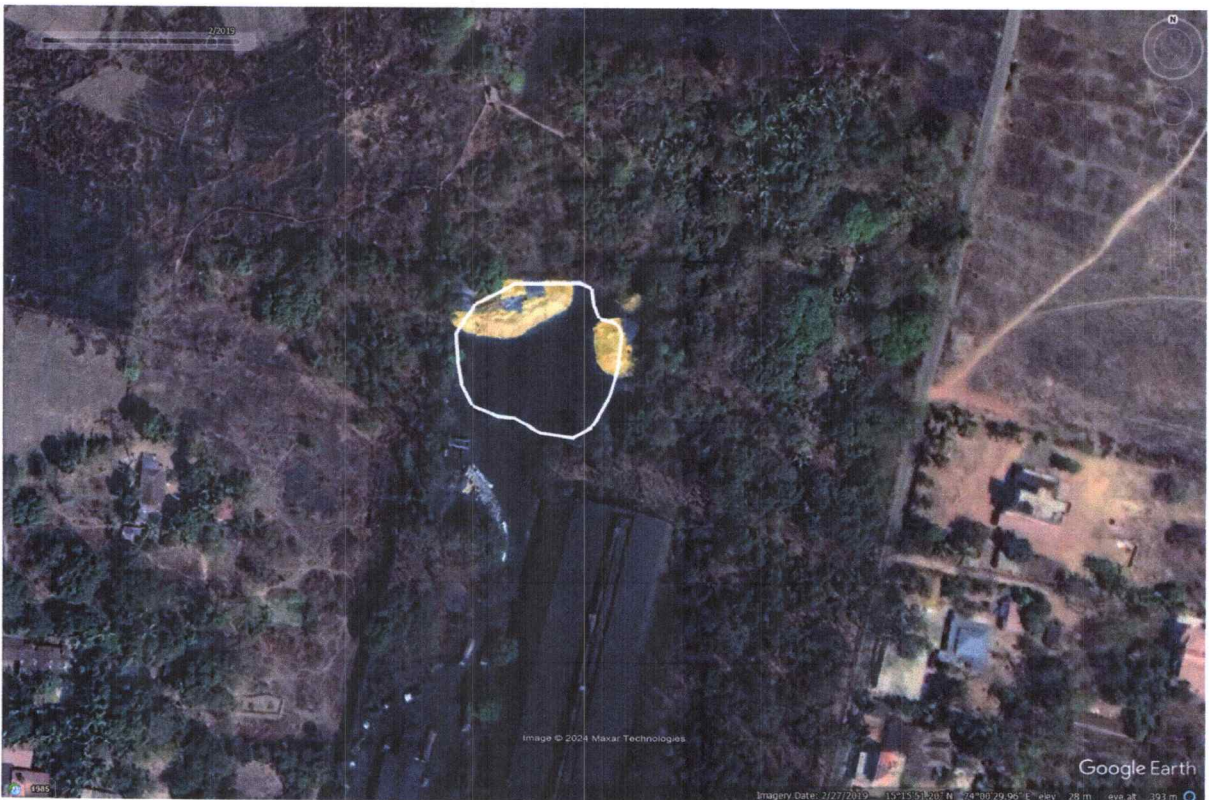
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GOOGLE EARTH IMAGE OF 27.2.2019

Goa Carbon factory stands out as a dark patch of unmistakable pollution



A large uncovered stack of RPC permanently remains uncovered in the open yard, all the time

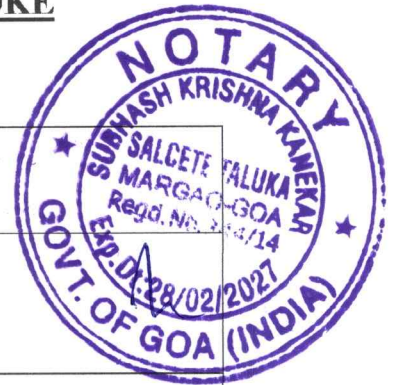


**BHARAT PETROLEUM CORPORATION LTD.
KOCHI REFINERY**

SAFETY DATA SHEET OF PETROLEUM COKE

1. CHEMICAL IDENTITY

| | | |
|-------------------------------------|---------------------------|-----------------|
| Chemical Name : Petroleum coke | | |
| Chemical Classification : Flammable | | |
| Synonyms : Pet Coke | | |
| Trade Name : | | |
| Formula : | C.A.S.No.: 64741-79-3 | UN No.: NA |
| Regulated Identification | Shipping Name : NA | |
| | Codes/Label : NA | |
| | Hazardous waste I.D. : NA | |
| | Hazchem Code : 3WE | |
| HAZARDOUS INGREDIENTS: | C.A.S. No.: | Weight % |
| 1. Petroleum Coke | 64741-79-3 | 100 |
| 2. Sulfur Compounds: | Mixture | 1-6% |
| 3. Polycyclic Aromatic Hydrocarbons | Mixture | <0.1% |



2. PHYSICAL AND CHEMICAL DATA

| | |
|-----------------------------|-----------------------|
| Boiling Point/Range °C | NA |
| Physical State | Solid |
| Appearance | Black powder or solid |
| Vapor pressure | NA |
| Melting/Freezing Point °C | NA |
| Odor | Slight hydrocarbon |
| Vapor Density (Air=1) | 1.7 |
| Solubility in water @ 30°C | Insoluble |
| Others | NA |
| Specific Gravity(Water = 1) | 2.07 |
| pH (10% Solution) | NA |



**BHARAT PETROLEUM CORPORATION LTD.
KOCHI REFINERY**

3. FIRE AND EXPLOSION HAZARD DATA

| | | |
|---|-------------------------|------------------------------|
| Flammability : Yes | LEL % : NA | Flash Point °C: NA (OC) |
| TDG Flammability : NA | UEL % : NA | Flash Point °C : NA (CC) |
| Auto-ignition Temperature °C : 670 | | |
| Explosion Sensitivity to Impact : NA | | |
| Explosion Sensitivity to Static Electricity : Yes | | |
| Hazardous Combustion products : CO ₂ , CO, SO ₂ | | |
| Hazardous Polymerization : No | | |
| Combustible : NA | Explosive Material : NA | Corrosive Material : Sulphur |
| Flammable Material : Yes | Oxidiser : NA | Others : NA |
| Pyrophoric Material : No | Organic Peroxide : NA | |



4. REACTIVITY DATA

| |
|--|
| Chemical Stability : Stable. |
| Incompatibility with : Heat , extreme temp Other Material |
| Reactivity : Nil |
| Hazardous Reaction : CO ₂ , H ₂ S, CO, etc Products |

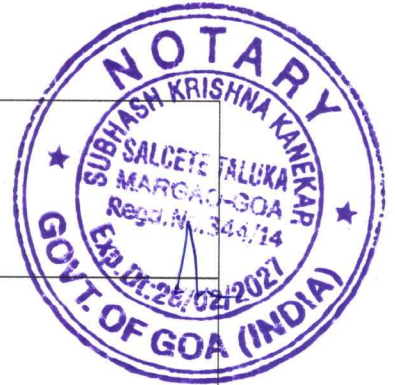
Bharat



**BHARAT PETROLEUM CORPORATION LTD.
KOCHI REFINERY**

5. HEALTH HAZARD DATA

| | | | |
|---|------------------|---|--------------|
| <u>ROUTES OF ENTRY</u> | | | |
| Inhalation, Skin | | | |
| <u>Effects of Exposure/ Symptoms</u> | | | |
| Skin : redness, Irritation, dizziness on exposure | | | |
| <u>EMERGENCY TREATMENT</u> | | | |
| Inhalation | : | Remove to fresh air. | |
| Skin & eyes | : | Flush with Plenty of water, get medical Attention | |
| L.D50 (Oral-Rat) mg/kg : Permissible | | | |
| Odor Threshold ppm | : | | |
| Exposure Limit | : | Not known | |
| TLV (ACGIH) | : | | |
| STEL ppm. | : | NA | |
| <u>NFPA Hazard Signals</u> | | | |
| Health : 1 | Flammability : 1 | Reactivity : 0 | Special : NA |



6. PREVENTIVE MEASURES

| | | |
|-------------------------------|---|--|
| Personal Protective Equipment | : | Goggles, Rubber Hand gloves, Respiratory Protection, Proper Ventilation. |
| Handling and Storage | : | Wear Rubber gloves, Face shield etc |

7. EMERGENCY AND FIRST AID MEASURES

| | |
|--------------------------|--|
| <u>FIRE</u> | |
| Fire Extinguishing Media | : Do not use water on fires in enclosed spaces due to the potential for hydrogen and carbon monoxide production. |
| Special Procedure | : For fires involving this material, do not enter any enclosed or confined fire space without proper protective equipment, including self-contained breathing apparatus. |
| Unusual Hazards | : Material in storage piles may ignite spontaneously. Material may ignite spontaneously. Dust may form explosive mixtures with air. |



**BHARAT PETROLEUM CORPORATION LTD.
KOCHI REFINERY**

EXPOSURE

First Aid Measures

: Eyes:

Immediately flush eyes with plenty of water for at least 15 minutes. Hold eyelids apart while flushing to rinse entire surface of eye and lids with water. Get medical attention.

Skin:

Wash skin with plenty of soap and water until all traces of material are removed. Remove and clean contaminated clothing (See Other Instructions). Destroy non-resistant footwear. Get medical attention if skin irritation persists or contact has been prolonged.

Ingestion:

If more than several mouthfuls of this material are swallowed, give two glasses of water (16 oz.). Get medical attention.

Inhalation:

If inhaled, remove the victim to fresh air. If not breathing, clear person's airway and give artificial respiration. If breathing is difficult, qualified medical personnel may administer oxygen. Get medical attention immediately



SPILLS

1. Contain the spill immediately.
2. Provide water spray and keep the product wet

8. ADDITIONAL INFORMATION/REFERENCES

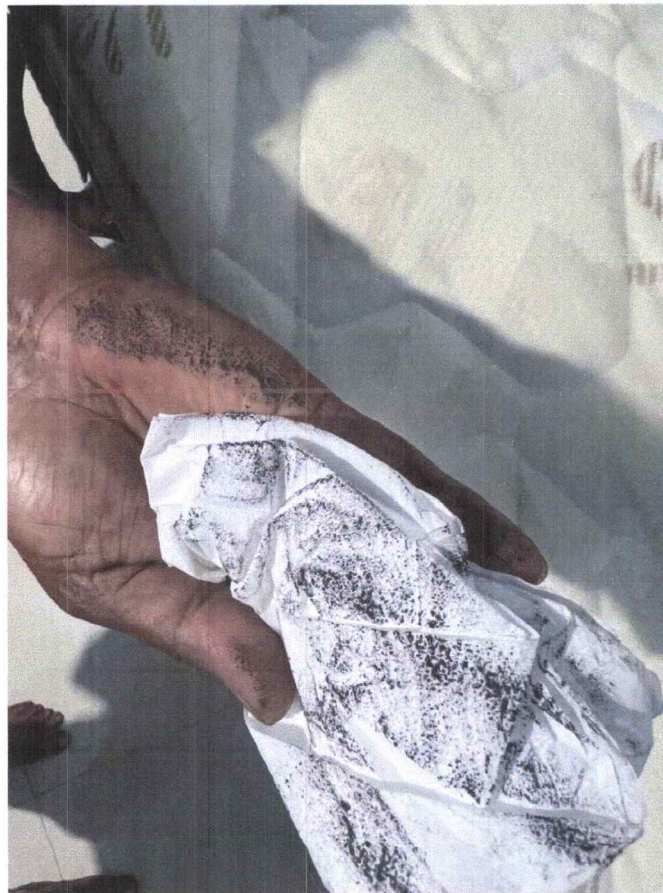
ADDRESS : BPCL- KOCHI REFINERY,
PB No. 2
Ambalamughal-682 302
Ernakulam Dt., Kerala
Tel: 0484-2722061
Website: bharatpetroleum.in

Photos dated 17.06.2024

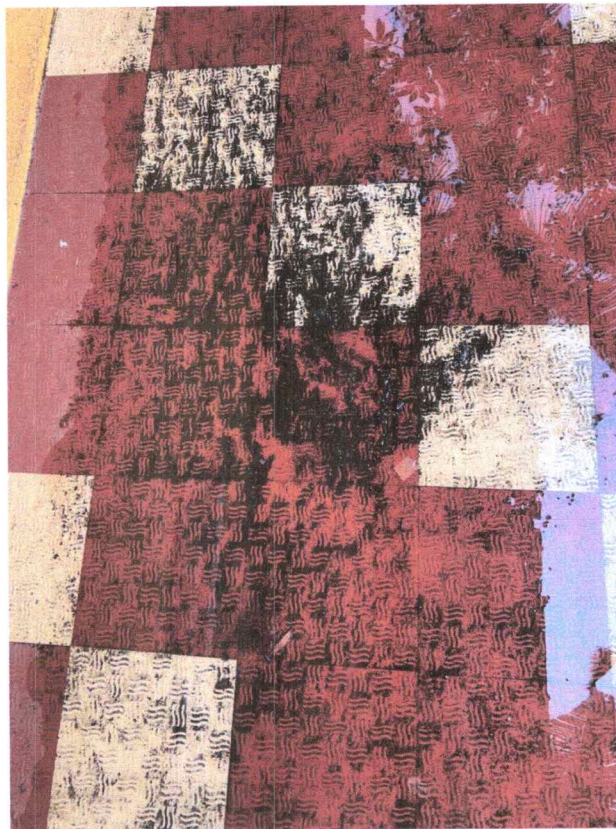
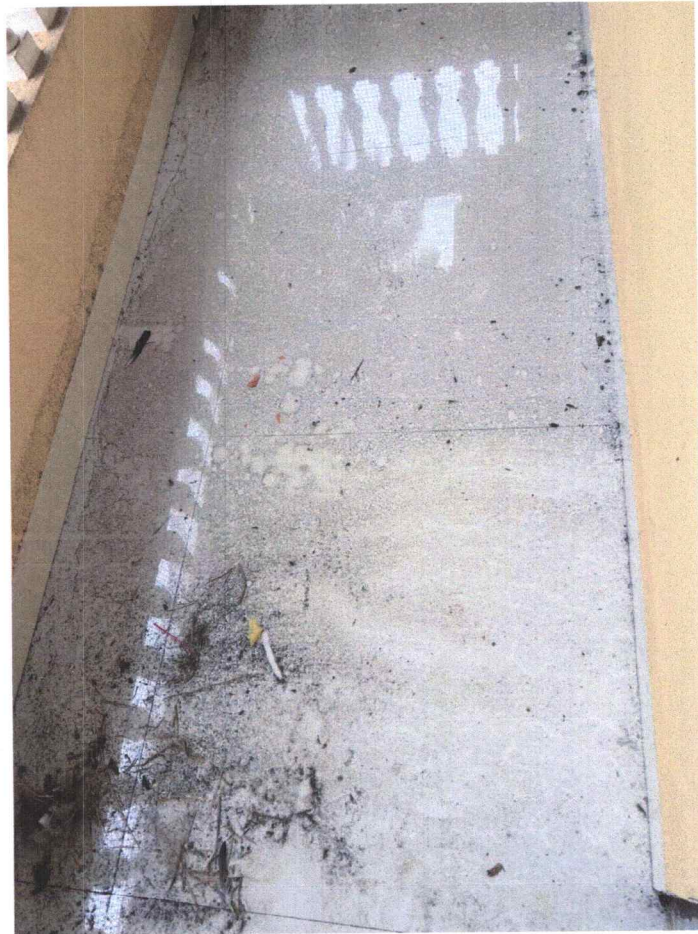
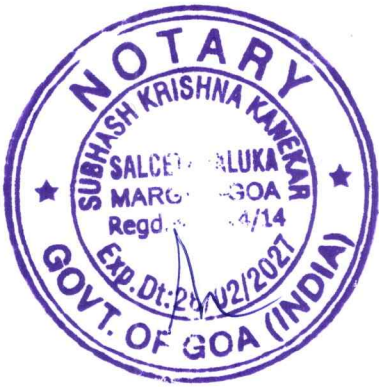
Igorje waddo, Ralloi Residency, Moll A waddo, Sao Jose de Areal, Salcete Goa



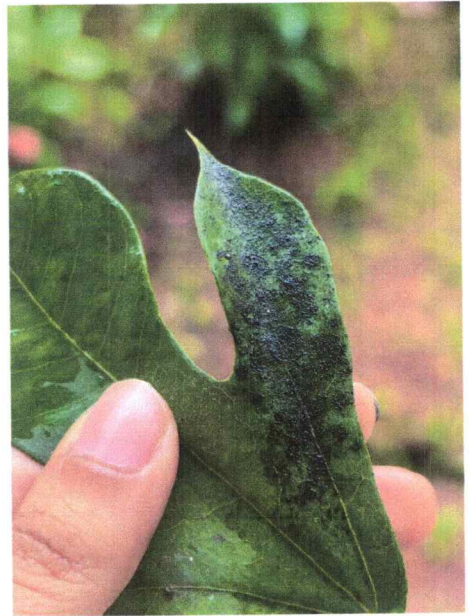
Pranav



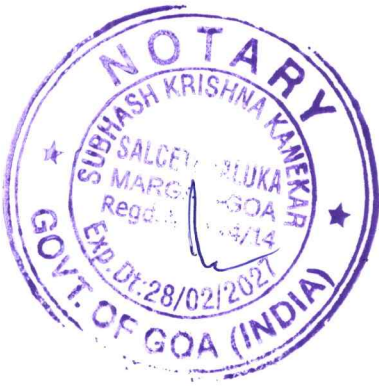
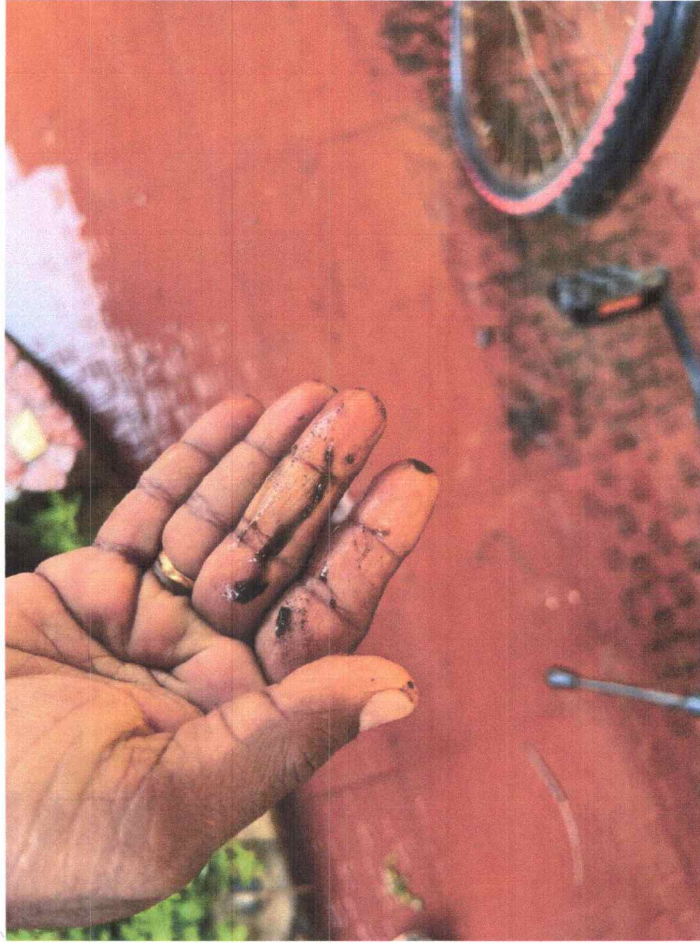
Prerona



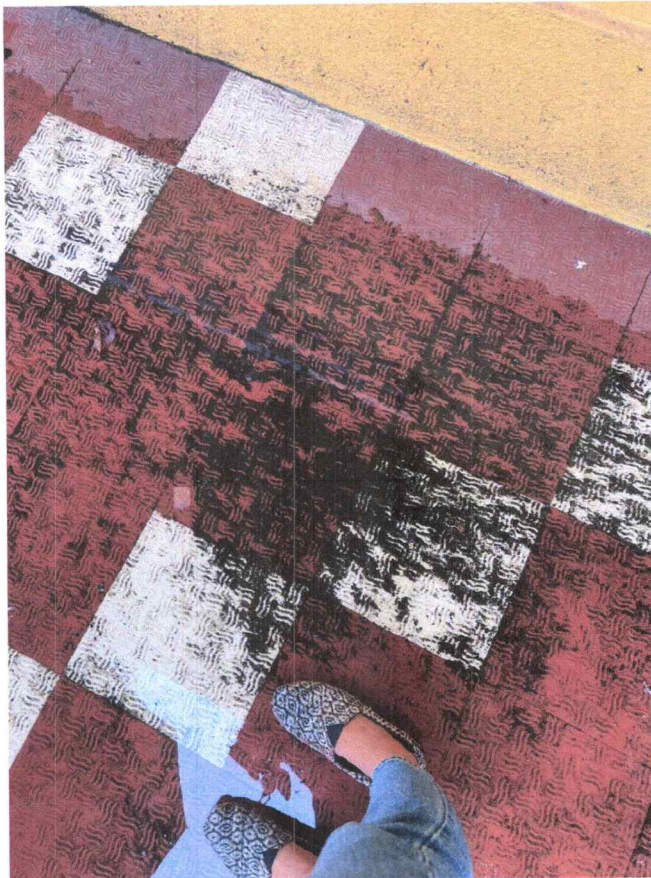
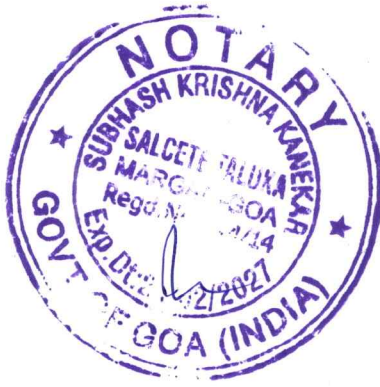
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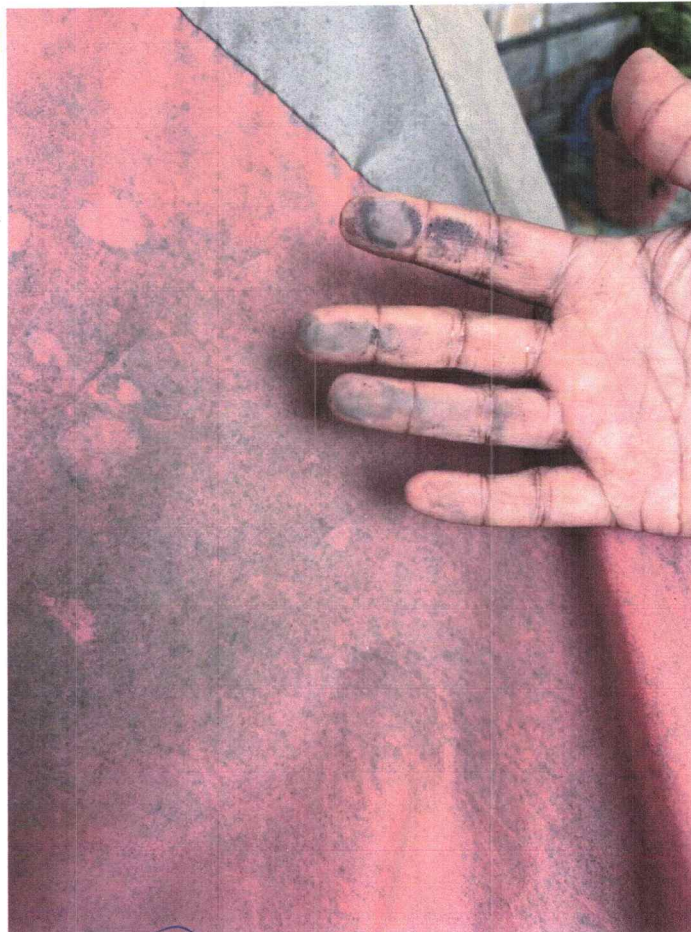
Subhash Kanekar



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Signature



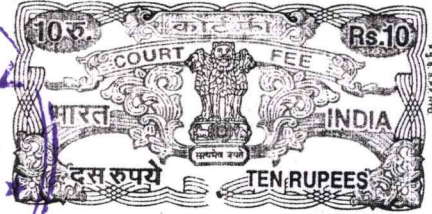
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From
Felix Pereira
H. No. 642, Moll, Sao Jose De Areal, Salcete Goa. 403709

Date: 06-06-2024

To
The PIO
Goa State Pollution Control Board
Saligao Goa.

Sub: RTI Act 2005



Sir

With regards to Goa Carbon Factory Ltd situated in the village of Sao Jose De Areal, Kindly provide me the following certified copies under RTI Act 2005. I will pay you the necessary fees.

1. Copy of the Consent to Operate issued by you for Goa Carbon Factory Ltd with effect from this year 2024 till so on.
2. Copy of the application/ letter submitted to you by Goa Carbon Factory Ltd requesting for consent to operate and all its enclosures along with the application/ letter.
3. Copies of all the reports/ documentation/ Grounds on which the Consent to Operate is given by you to Goa Carbon Factory Ltd.
4. Documentation showing whether all the recommendations given by Human Rights Commission in their judgment (Copy enclosed) are fulfilled by Goa Carbon Factory Ltd. If not provide the report on action taken by you.
5. Copy of all the complaint letters received by you from 1st January 2024 till date.
6. Copy of the Air monitoring reports related to Goa Carbon Factory Ltd with effect from 1st January 2023 to till date.
7. Copy of the report on action taken by you against the Goa Carbon Factory Ltd, if the parameters shown in the air monitoring machine have crossed the permissible limits/levels.
8. Names of the location where the air monitoring machine were installed to monitor the emission of the said factory with effect from 1st January 2023 till date if any.
9. Documentation showing amount/tonnes and different grade of raw material being received at the factory and all the export done with effect from January 2024 till date.

I ask this information in the interest of the villagers.

Please do the needful at the earliest.

Thanking you


Felix Pereira

Ph. No. 9823480383

