

**FACTUAL & ACTION TAKEN REPORT**  
**OF**  
**JOINT COMMITTEE**  
**In the Matter of**  
**O.A. NO. 59/2023 (CZ)**  
**MAHENDRA KUMAR SAXENA**  
**V/S**  
**STATE OF MP & ORS.**



Date of visit: 19 September 2023  
Date of Report Submission: 13 October 2023

Location:  
University Bridge, AG Office Gwalior (MP)

## Index

<b>S. No.</b>	<b>Details of Documents</b>	<b>Page No.</b>
1.	Joint committee inspection report	1-10
2.	Annexure – C 1 The GPS map showing locations of petitioner house, bitumen drum store, patch repairing material storage area, fly over, roads, railway line etc.	11
3.	Annexure – C 2 The photographs taken during the site visit of Joint Committee	12-14
4.	Annexure – C 3 Letter of Municipal Corporation, Gwalior	15

## **Joint Committee Report**

**Ref: Inspection of the joint committee dated 19.09.2023 as per the orders of Hon'ble NGT in case of OA 59/2023(CZ) dated 26.07.2023 Mahendra Kumar Saxena V/s State of MP & Ors.**

Hon'ble NGT in reference to OA 59/2023 (CZ) Mahendra Kumar Saxena V/s State of MP & Ors. vide order dated 26.07.2023 has given following instructions:

*“3. Now, the grievance raised is that the bitumen drums are being kept and mixing of bitumen for construction of road, is regularly being done under the bridge, causing air and noise pollution and despite complaint made by applicant, vide letter dated 01.05.2023, no action has been taken by respondents.*

*4. We have considered the submissions and also perused the record including photographs appended to the application. We find that a large number of bitumen drums are stored under the bridge which appears to be a flyover. Mixing of bitumen as also its transportation by various trucks under the bridge is going on as is visible clearly in the photographs. The above activities under the bridge/flyover, besides others, is bound to obstruct traffic and is causing traffic nuisance in respect whereof Traffic Police must have taken care but it appears that no action has been taken by them also.*

*5. We are also of the view open area under the bridge/flyover cannot be utilized for such purposes and the activities going on in the manner as are evident from the photographs, are ex-facie illegal and unauthorized. Evidently noise and air pollution is being caused by these activities.*

*6. However, in our view, the issue can be taken care by the concerned authorities at the local level and, therefore, we constitute a Joint Committee comprising Collector, Gwalior, Police Commissioner/SSP, Gwalior and MPPCB, who shall visit the site, collect relevant information and take appropriate and remedial action within two months and submit a Compliance Report by 15.10.2023 before Registrar, Central Zonal Bench, Bhopal by e-mail at [ngtczbbho-mp@gov.in](mailto:ngtczbbho-mp@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF, who shall, if find necessary for any further order, place the matter before the Bench.*

*7. State Pollution Control Board shall be the nodal agency for coordination and compliance of this order.*

In compliance to the orders of Hon'ble NGT, a site visit of the Municipal Corporation Gwalior (MCG) Patch Repairing Store situated below University Fly

Over near AG Office Gwalior, MP was conducted on dated 17.08.2023 by the Joint Committee consisting of the following officials of the concerned departments:

<b>Sr. No.</b>	<b>Name of Department</b>	<b>Name of Representative</b>
1.	Collector, Gwalior	Shri Pradeep Kumar Bhooriya, Mining Officer (Incharge), Gwalior
2.	Commissioner/SSP, Gwalior	Shri Rishikesh Meena, Additional SP, Gwalior
3.	State Pollution Control Board	Shri R.R. Singh Sengar, Regional officer, MPPCB, Gwalior

Shri A.P.S. Jadon, Executive Engineer, MCG, Shri Haseen Akhtar, Assistant Engineer, MCG, Ms Kratika Vishwkarma, Sub Engineer, MCG, Ms Bharti Bhagat, Sub Engineer, MCG, Ms Chhaya Yadav, Sub Engineer, MCG, Shri Jawahar Singh, Supervisor, MCG along with petitioner Shri M. K. Saxena and his son Shri Abhishek Saxena were present during the inspection.

The geographical location, photographs and visual observations were recorded during inspection by Joint Committee. The committee recorded the following facts in observations during the inspection in reference to the points mentioned in the petition.

#### **OBSERVATIONS OF JOINT COMMITTEE DURING INSPECTION:**

During inspection following observations are recorded by the Joint Committee: -

1. There is a Patch Repairing Material Store of MCG situated below University Bridge/Fly Over near AG Office in Gwalior city. This place is used by MCG for storage of bitumen drums and storage of some quantity of patch repairing material like WMM, Stone Metal, Murrum etc. This patch repairing material is used for minor repairing of roads of city as and when required.
2. During visit lot of bitumen drum were seen placed inside store area. Patch repairing material like WMM (Wet Mix Material), Stone Metal, Murrum

etc. were also seen placed outside bitumen drum store area which is open to sky. About 30 cubic meter of patch repairing material was seen there.

3. Bitumen drum store is enclosed by wall of height about 4 meter and situated below fly over landing. The places where other patch repairing material like WMM, Stone Metal, Murrum etc. placed was about 40 meter away and situated opposite to the petitioner house. This material storage area is not visible from petitioner house since bitumen drums storage area is situated in between.
4. No facility for bitumen mixing, Bhatti etc. was seen at the spot by Joint Committee. There were no sign or impressions found at the spot where bitumen and stone metal heated and mixed to prepare hot bitumen mix for road patch repairing. As intimated by MCG officials present during inspection. The readymade hot mix material transported to that spot through dumpers and unloaded there. There after this material is loaded in small vehicles and send for patch repairing work. Thus this place is used as hot mix material transfer station. This activity is not regular but occasional. So the statement of petitioner that the bitumen mixing is carried out at the spot is not correct.
5. Bitumen drums are transported from this store to hot mix plant of MCG situated outside city by vehicles and empty drums also transported back to this spot and are store in this storage area. Also some quantity of patch repairing material is always kept here for use in minor repairing of roads of city. This material is also transported here time to time through transportation vehicles/dumpers. This practice is occasional since quantity of stored patch repairing material at the spot was very less about 30 cubic meter seen during inspection by Joint Committee. The photographs of vehicles enclosed by petitioner with his petition are the vehicles used for transportation of material to and fro from the site.

6. There is no public road passing besides this patch repairing material storage area. It is a dead end area. So the statement of petitioner that this store/activity obstruct the traffic and causing traffic nuisance is not correct.
7. The GPS map showing locations of petitioner house, bitumen drum store, patch repairing material storage area, fly over, roads, railway line etc. is enclosed as **Annexure-C 1**. The distances of various important locations from petitioner house are mentioned as below as measured by GPS map :
  1. Gwalior Dabra road – 40 meter in West Direction
  2. Railway Line – 50 meter in East Direction
  3. Bitumen Drum Store – 30 meter in South Direction
  4. Patch Repairing Material Storage Area – 40 meter in South Direction.
  5. Other residential/commercial establishment are situated in North Direction adjoined area.
8. The location of petitioner house surrounded by the road/fly over from two sides and railway line in one side from which frequent road/railway traffic passes. These continuous activities impart air and noise pollution in the area. The activities performed there by MCG for bitumen drum and patch repairing material handling is occasional and also there is a permanent barrier wall situated between petitioner plot and this storage area. So this statement of petitioner is also not correct that noise and air pollution is being causes by these activities.
9. The photographs taken during the site visit of Joint Committee are enclosed as **Annexure-C 2**.

**FACTUAL STATUS WITH RESPECT TO ISSUES RAISED BY PETITIONER  
IN PETITION O.A. 59/2023**

Sr. No.	Issues Raised	Factual Status
1	The bitumen drums are being kept and mixing of bitumen for construction of road, is regularly being done under the bridge, causing air and noise pollution and despite complaint made by applicant, vide letter dated 01.05.2023, no action has been taken by respondents.	<ol style="list-style-type: none"> <li>1. There is a bitumen drum store developed by MCG under the bridge/fly over situated near AG Office Gwalior.</li> <li>2. No hot mix bitumen is prepared at this site. This location is used occasionally by MCG only for readymade hot mix material transfer station.</li> <li>3. No patch repairing material is prepared at this site and this site is used only as a material transfer point. Also there is a curtain wall between material storage area and petitioner house and the distance between these two locations is about 40 meter. So it is not correct that air &amp; noise pollution is caused due to operation of this patch repairing material storage area.</li> </ol>
2	We have considered the submissions and also perused the record including photographs appended to the application. We find that a large number of bitumen drums are stored under the bridge which appears to be a flyover. Mixing of bitumen as	<ol style="list-style-type: none"> <li>1. Bitumen drums are transported from this store to hot mix plant of MCG situated outside city by vehicles and empty drums also transported back to this spot and are stored in this storage area. Also some quantity of patch repairing material is always kept here for use in minor repairing of roads of city. This material is also transported here time to time through transportation vehicles/dumpers. This practice is</li> </ol>

	<p>also its transportation by various trucks under the bridge is going on as is visible clearly in the photographs. The above activities under the bridge/flyover, besides others, is bound to obstruct traffic and is causing traffic nuisance in respect whereof Traffic Police must have taken care but it appears that no action has been taken by them also.</p>	<p>occasional since quantity of stored patch repairing material at the spot was very less about 30 cubic meter seen during inspection by Joint Committee. The photographs of vehicles enclosed by petitioner with his petition are the vehicles used for transportation of material to and fro from the site.</p> <p>2. There is no public road passing besides this patch repairing material storage area. It is a dead end area. So the statement of petitioner that this store/activity obstruct the traffic and causing traffic nuisance is not correct.</p>
<p>3</p>	<p>We are also of the view open area under the bridge/flyover cannot be utilized for such purposes and the activities going on in the manner as are evident from the photographs, are ex-facie illegal and unauthorized. Evidently noise and air pollution is being caused by these activities.</p>	<p>The location of petitioner house surrounded by the road/fly over from two sides and railway line in one side from which frequent road/railway traffic passes. These continuous activities impart air and noise pollution in the area. The activities performed there by MCG for bitumen drum and patch repairing material handling is occasional and also there is a permanent barrier wall situated between petitioner plot and this storage area. So this statement of petitioner is also not correct that noise and air pollution is being causes by these activities.</p>

## **ACTION TAKEN REPORT:**

Joint Committee after visiting the site contacted MCG Commissioner regarding the issue. MCG submitted a letter on dated 20/09/2023 in which MCG stated that there is a bitumen drum store only under AG Office Bridge. No hot mix plant is installed there. No bitumen mixing work is carried out there. MCG is continuously shifting the bitumen drums from the store and there is no pollution generated from these activities. MCG also proposed removal of patch repairing material stored at the site soon. MCG also proposed transfer of this patch repairing store from the current location to some other place within 06 months period. Letter submitted by MCG on dated 20/09/2023 is enclosed as **Annexure-C 3**.

## **CONCLUSION:**

Considering the above status and observation made by Joint Committee during inspection, Joint Committee concluded as follows:

1. MCG installed a bitumen drum and patch repairing material storage under AG Office Bridge.
2. No bitumen material mixing work is carried out at this site.
3. This site is used only as material transfer station. Occasionally the patch repairing material like WMM, Stone Metal, Murrum etc. are stored here in small quantity. The stored material is supplied time to time from here to the road patches repairing spots as and when required.
4. There is no public road passes from this patch repairing material storage area. This is the dead end spot. So there is no obstruction to the traffic movement due to this storage area.
5. There is a four meter high barrier wall between material storage area and petitioner house. Also these are about 40 meter apart. So chances of generation of air and noise pollution due to occasional activities of material handling are not found considerable.

6. MCG proposes the shifting of this patch repairing material store from this site to some other place within six month period.

**RECOMMENDATION:**

Municipal Corporation Gwalior submitted a proposal letter for submission of Joint Committee report to Hon'ble NGT on dated 20/09/2023. As per MCG proposal this patch repairing material store will be shifted to some other places within six month. So Joint Committee recommends that direction should be given to MCG for shifting of this store to some other suitable place within six month.

The member of Joint Committee present during meeting and field inspection on dated 19.09.2023 duly signed this report as follows:

Collector, Gwalior	Shri Pradeep Kumar Bhooriya, Mining Officer (Incharge), Gwalior	
Commissioner/ SSP, Gwalior	Shri Rishikesh Meena, Additional SP, Gwalior	
State Pollution Control Board	Shri R.R. Singh hhhgf, Regional officer, MPPCB, Gwalior	





Photograph showing Joint Committee Members & MCG Officials along with Petitioner



Photograph showing Main Gate of Bitumen Drum Store Under AG Office Bridge



Photograph showing Bitumen Drums Stored inside the Store Area



**Photograph showing Storage of Patch Repairing Material at the site**



कार्यालय आयुक्त,  
नगर पालिक निगम, ग्वालियर

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ग्वालियर दिनांक 20.09.2023

क्रमांक 1/23/2/10/सा.प्र./2023 26794

प्रति,

क्षेत्रीय अधिकारी  
(प्रदूषण नियंत्रण बोर्ड)  
ग्वालियर

विषय :- ए.जी. ऑफिस पुल के नीचे पेंचरिपेयर स्टोर के सम्बन्ध में।  
संदर्भ :- माननीय नेशनल ग्रीन ट्रिब्यूनल भोपाल द्वारा ओ.ए. क 59/2023 महेंद्र कुमार  
सर्वसैना बनाम म.प्र. शासन एवं अन्य में पारित आदेश दिनांक 26.07.2023 एवं आपका  
पत्र क /अ.पु.अ./शहर/पूर्व/स्टेनो/467/23 दिनांक 12.08.2023

उपरोक्त विषय में लेख है, कि ए.जी. ऑफिस पुल के नीचे निगम का स्टोर है।  
वर्तमान में उक्त स्थल पर मिक्सर का प्लांट नहीं है। पूर्व में ही स्थानांतरण किया जा चुका है। और  
न ही उक्त स्थल पर विटामिन मिक्सिंग का कार्य किया जाता है। स्टोर से ड्रम हटाने/शिफ्टिंग का  
कार्य गतिशील है। उक्त गतिविधियों से किसी भी प्रकार का प्रदूषण नहीं होता है। कुछ रोड़  
मटेरियल मौके पर है, शीघ्र हटाया जावेगा।

उक्त पेंचरिपेयर स्टोर को स्थानांतरण करने की कार्यवाही प्रस्तावित है। लगभग छः  
माह के अन्दर स्टोर हटाने की कार्यवाही की जावेगी।

आयुक्त  
नगर पालिक निगम, ग्वालियर

प्रतिलिपि

01. कलेक्टर, जिला ग्वालियर।

02. अतिरिक्त पुलिस अधिकारी, (पूर्व) ग्वालियर।

आयुक्त

नगर पालिक निगम, ग्वालियर