From,
Jimmy Zarir Mehta,
Secretary, District Legal Services Authority,
Bharuch.
Date: 31st of July 2020

Submit to,
The Registrar,
The National Green Tribunal,
New Delhi.

Subject: Interim report in connection with an order passed by the National Green Tribunal in Original Application 22/20(WZ), dtd. 08-06-2020.

With respect to the subject mentioned above, I the undersigned most respectfully submit as under:

Hon'ble National Green Tribunal vide order dated 8th June, 2020, directed the District Magistrate to collect/recover and disburse the interim compensation in favour of the victims of the an incident dated 3rd June, 2020. The District Magistrate was also directed to work in consultation with the District Legal Service Authority, Bharuch and entire process to be overseen by the Member Secretary, State Legal Service Authority, Ahmedabad.

Background:

1. On 03-06-2020 at around 12 pm in the noon, a chemical explosion occurred in the storage tank of a chemical factory known as Yashyashvi Rasayan Pvt. Ltd., Special Economic Zone-1, Dahej, Taluka: Vagra, District: Bharuch (hereafter referred to as 'The Company').

2. Pursuant to which, Aryavart Foundation, an NGO located at Surat filed an application before the Hon'ble the National Green Tribunal (hereafter referred to as 'The Hon'ble Tribunal') mentioning the above facts. As a result of which, on 08-06-2020, the Hon'ble Tribunal passed an *interim* order directing the opponent Yashasvi Chemicals Pvt. Ltd. to deposit an amount of Rs. 25 Crores, which mathematically exactitudes to different heads as given below:

Sr. No.	In Case of	Amount of Compensation per person in Rs.
1	Death	15 lacs
2	Grievous Injury	5 lacs
3	Injuries of persons hospitalized	2.5 lacs
4	Displacement	2500

3. It was further directed that the amount so deposited by the Company may be disbursed by preparing an appropriate plan by the District Magistrate in consultation with the District Legal Service Authority, Bharuch to be overseen by the Member Secretary, State Legal Service Authority. It was further directed that the amount Rs.25 Crores may be deposited with the District Magistrate, Bharuch within 10 days from the date of the order. Disbursement may be made within one month thereafter. If the company fails to make the

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deposit, the State will be at liberty to recover the same by coercive methods but the disbursement may in such case be made out of the State funds within one month with right of the State to recover the amount from the Company.

4. It was further directed that the amount may be disbursed by the District Magistrate by making disbursement plan in the manner already indicated in the tabular form given above. Disbursement plan may consider safeguards to ensure that amount reaches the beneficiaries and is not misappropriated by any intermediary.

Action taken:

5. A copy of this order was received by the undersigned on 10-06-2020. Pursuant to which a meeting was held with the District Magistrate, Bharuch, The Chairman, DLSA, Bharuch, The Sub-Divisional Magistrate, Bharuch ("hereafter referred to as The SDM"), The Civil Surgeon, Bharuch and the Judges of Labour Court, Bharuch, on 12-06-2020. A detailed discussion *qua* the following issues were held:

a) modalities of disbursement to the beneficiaries,

b) opening a seperate bank account in the name of The District Magistrate, Bharuch, for receiving the sum of Rs. 25 crores to be deposited by the Company.

c) list of 10 deceased persons was produced by the District Magistrate, which is depicted as ref. no. 3 stating that the Company had already made payments according to the Workman Compensation Act, Group Insurance Policy and in addition to that ex-Gratia amount was also paid. A detailed report of which was to be submitted by the SDM within a short period of time.

d) It was informed by the District Magistrate that the Company had moved an appeal against the order passed by the Tribunal in the Hon'ble Supreme Court of India.

e) The Civil Surgeon, Bharuch will provide assistance in ascertaining the type of injuries sustained by the injured persons for the sake of assessing the amount of *interim* compensation.

6. On 16-06-2020 the Hon'ble Member Secretary, Gujarat State Legal Services Authority, Ahmedabad paid visit to BharuchDM, Bharuch (Mr. Prajapati, as the District Magistrate has deputed him for handling this case) and the Chief Medical Officer and Civil Surgeon, Bharuch. All the above mentioned points were reiterated and emphasis was laid on the fact that no intermediaries or agents should interfere in the payment which is going to be made to the affected persons, by taking advantage of their ignorance or illiteracy. Following points were also discussed:

a) the Chief Medical Officer and Civil Surgeon, Bharuch will visit all the hospitals wherein the injured persons have taken treatment and/or are admitted. He will ascertain the type of injuries and submit a report to the SDM. In case of the deceased persons the SDM shall obtain death certificates and verify the same.

b) it shall be ascertained by the SDM in consultation with the Labour Officer, Bharuch and the Company's Human Resources Manager, as to whether the deceased or injured person was

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working in the Company or not. Similarly, the persons injured or dead in the neighbouring units shall also be verified.

c) it was submitted by the SDM that there was no permanent displacement of the residents of the nearby Villages and certificates to that effect were obtained from the Gram Panchayats of those Villages.

d) payments shall be made strictly adhering to the ratio laid down in the order of the Tribunal and for that the payments made by the Company in the form of Workman Compensation, Insurance, wages of the employees, etc. shall not be taken into consideration.

e) in order to avoid intermediaries, payments be made directly to the injured and no other person on behalf of him. In case of deceased persons payment be made to the lineal descendants only and none else.

f) verifying the legal representatives of the deceased with pedigree certificates / pariwar registers and identities of all the beneficiaries and/or their relatives.

g) being pro-active and eliminating all the intermediaries and agents in the process of disbursement.

h) to bring utmost transparency in the entire process by depositing the compensation amount directly in the bank account of the beneficiaries or their relatives (only in case of deceased) vide bank RTGS.

7. On 18-06-2020, I was informed by the SDM, Bharuch that one more person had succumbed to his injuries, raising the death toll to 11. He also stated that the Company had paid him an ex-Gratia compensation of Rs. 34,26,176/- in addition to other WC, Insurance and Gratuity dues.

8. On 19-06-2020, as the Company had not deposited the amount even after the lapse of 10 days given to it nor did he produce any order staying his payment; the District Magistrate, Bharuch wrote a letter to the Commissioner, Gujarat State Relief, for allotting the funds as per the order of the Hon'ble Tribunal.

9. On 25-06-2020, we received a copy of the order passed by the hon'ble Supreme Court of India, in Civil Appeal No. 2629 of 2020, dated 22-06-2020. Wherein, the hon'ble Apex Court had;

a) ordered the Company to approach the NGT for modification of the order as far as the displacement aspect is concerned.

b) requested the Tribunal to reassess the compensation, if necessary, in light of the data placed before it.

c) granted 10 days time to the Company for making the payment.

d) stayed the disbursement of the amount to the displaced persons till a fresh decision is taken by the NGT.

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10. Pursuant, to this order of the Hon'ble Apex Court, the company had started arranging for the funds and simultaneously, SDM, Bharuch was also instructed by us to collect and complie all the necessary information with regard to the bank details, identity cards, etc. for disbursing the *interim* compensation to the victims of the said incident, as soon as possible.

11. On 02-07-2020, the Company deposited a cheque of Rs. 3 Crore 10 Lakhs in the account of the District Magistrate, Bharuch, (which was realized in the bank account on 03-07-2020) stating that as they have got a stay order against the payment of *interim* compensation of Rs.25,000/- for each displaced person and while making payment of Rs. 3 Crore 10 Lakhs the categories of deceased and injured have been taken into account.

12. On 03-070202, the Hon'ble Member Secretary, Gujarat State Legal Services Authority, Ahmedabad paid second visit to Bharuch and during the meeting with the SDM and Chief Medical Officer cum Civil Surgeon when the amount which was required to paid by the Company is calculated, it was found that actually the Company is supposed to make is Rs. Rs. 3 Crore 40 Lakhs. The said calculation is as under:-

28 persons with simple hurts × 2.5 lacs = Rs. 70,00,000/-
+
21 persons with grievous hurts × 05 lacs = Rs. 01,05,00,000/-
+
11 persons deceased × 15 lacs = Rs. 01,65,00,000/-

Total = Rs. 03,40,00,000/- (Rupees Three Crores Forty Lacs Only)

13. Thus, there was a variation of Rs. 30,00,000/- (Rupees Thirty Lakhs Only). It was conveyed to the SDM, Bharuch to do the needful for recovery of remaining amount of Rs. 30,00,000/- (Rupees Thirty Lakhs Only).

14. Hence, the officials of the Company namely Mr. Nilesh Parekh, HR Manager was called upon in the said meeting dated 03-07-2020. In the said meeting below mentioned points were discussed;

a) It was reiterated that the disbursement be made by direct bank transfer to the account of the beneficiaries vide RTGS and the verification of the same be done by some authorized personnel from the office of District Magistrate, Bharuch. Moreover, the beneficiaries should also be explained that their account has been credited by the compensation amount and the relevant entry be shown to them in their passbooks, so that there remains no room for any embezzlement.

b) as per the report submitted by the Chief Medical Officer cum Civil Surgeon, Bharuch, the figures of injured persons as stated above was undisputed.

c) the Company wanted some more time to deposit the required amount on the count that it is wishes to seek clarification and/or modification of the order dated 08-06-2020 passed by the Hon'ble Tribunal's order for which it has already initiated the process. Their main contention was that they have already spent a large amount of money after the treatment of injured workers and said amount may be allowed to be set off from the payments which they have to make and for that they requested the members of the said meeting to grant some more time.

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However, it was cleared by the Hon'ble Member Secretary, GSLSA that nobody except the Hon'ble Tribunal or the Hon'ble Apex Court has the powers to grant them any more time. In absence of any such order we are duty bound to proceed with the disbursement. Hence, the outstanding payment may please be made as soon as possible.

d) the second issue raised by the Company was that it was unclear as to how much amount they should deposit, because according to the tribunal's order they had to pay 25 Crores. This order was modified by the Hon'ble Apex Court and the amount pertaining to the displaced persons was stayed. The figures of displaced persons as submitted by the NGO are 4800, multiplying it by Rs.25,000/-, comes to Rs. 12 Crores. Hence, 25 Crores minus 12 Crores would give Rs. 13 Crores. Again, the calculation with respect to the above stated figures of deceased and injured persons would at the most come to Rs. 3 crores 40 Lakhs. Now, as they have already made ex-Gratia payments of more than Rs. 15 Lakhs to the relatives of 03 out of 11 deceased and as far as the remaining 08 deceased persons are concerned much less difference is left to reach the figure of Rs. 15 Lakhs after subtracting the ex-Gratia payments made to them. Hence, why would they deposit Rs. 09 Crores 60 Lakhs for no reason when the order of the Hon'ble Tribunal can be complied merely with Rs.03 Crores 40 Lakhs? And what should be done as regards the payment to those who have suffered minor injuries and have not been hospitalized at all? To get an answer to such questions the company wanted to request for an urgent hearing before the Hon'ble Tribunal and seek for the clarity in its order. As in absence of any such order it would not be possible for the authorities to use their discretion.

e) Finally, it was agreed between the members of the meeting that it is for the Company to decide what course of action it wishes to pursue and we can not wait and stall the process of disbursement under the pretext some orders would be passed in future by the Hon'ble Tribunal. Therefore, Mr. Nilesh Parekh, HR Manager was informed that required payment be made as soon as possible. To which Mr. Nilesh Parekh, HR Manager agreed to deposit the outstanding amount. Moreover, he also gave consent to proceed with the disbursements of all the deceased persons and undisputed cases of injured persons and list of such injured persons shall be supplied by the Company in a short period of time.

15. On 13-07-2020, a report was filed by the Chief Medical Officer cum Civil Surgeon, Bharuch, correcting figures of the persons who had sustained simple injuries (hospitalization) to 26 persons from 28.

16. On 14-07-2020, a meeting was held by the undersigned with the SDM, Bharuch and Mr. Dhaval Mehta, Properitor, Pranhans Engineering (Labour Supplier), in which the following discussions were made;

a) The SDM, Bharuch produced files of three deceased persons which were ready for disbursement of compensation, according to him:

(i) *Jayant Mahto*
A deceased who is entitled to full payment of Rs. 15 lacs.
His file had a colour xerox copy of the Pedigree certificate in Bengali Language and a xerox copy of his father's affidavit stating a change in his name. All identity proofs of his father were merely Xerox Copies. The SDM, Bharuch and Mr. Dhaval Mehta, Labour Contractor who had engaged him in the Company was instructed to submit the true copies as well as originals of all these documents. The SDM Bharuch was further instructed to check, verify

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and compare the original documents with their attested versions which were to be taken on record and take utmost care that no fraud or intermediary would creep in the process of disbursement.

(ii) *Pramod Yadav*
A deceased in whose case the Company had already paid an ex-Gratia amount of Rs. 08 lacs to his mother. Hence, she is now entitled to part payment of Rs. 07 lacs.
His file contained a xerox copy of the Pariwar Register in Hindi Language and a xerox copy of his father affidavit stating that he consents to the amount being transferred to the bank account of deceased's mother. All identity proofs of his parents were merely Xerox Copies. The SDM, Bharuch was instructed to procure the true copies as well as originals of all these documents and also to check, verify and compare the original documents with their attested versions which were to be taken on record and take utmost care that no fraud or intermediary would creep in the process of disbursement.

(iii) *Arun Kori*
A deceased who is entitled to full payment of Rs. 15 lacs.
His file contained a xerox copy of the Pedigree certificate in Hindi Language and a xerox copies of the identity proofs and bank details of his mother. The SDM, Bharuch was instructed to procure the true copies as well as originals of all these documents and also to check, verify and compare the original documents with their attested versions which were to be taken on record and take utmost care that no fraud or intermediary would creep in the process of disbursement.

b) Hence, it was resolved that once the documents are verified with their originals and true copies of every document is compared and placed on record only then the payment should be made to the beneficiaries by RTGS, directly in their bank account. It was further agreed that the entire process should be expedited.

17. On 22-07-2020 the SDM, Bharuch sent the receipt of application filed by the Company before the Hon'ble Tribunal dated 21-07-2020 seeking modification and/or clarification in the order dated 8th June, 2020.

18. On 22-07-2020 an amount of of Rs. 07 Lakhs was disbursed through an RTG System directly into the bank account of to Mrs. Shanti Devi, mother of the deceased, late Mr. Pramod Yadav, which was telephonically intimated to the undersigned on dt. 23-07-2020 by the SDM, Bharuch.

19. On 23-07-2020 the SDM, Bharuch submitted a list of undisputed cases of 08 injured persons for which the Company had consented to disburse payment. He also gave us a copy of the letter sent by him to the Company, demanding the outstanding amount of Rs. 30 Lakhs to be deposited as soon as possible, so that the disbursement could be made smoothly. However, no such amount has been deposited by the Company till the submission of this report.

20. Looking to this situation of non-payment by the Company, a meeting was organized on dt. 24-07-2020, with the SDM, Bharuch, the Chief Medical Officer cum Civil Surgeon, Bharuch, the Mr. Nilesh Parekh, HR Manager of the Company and the meeting was chaired by the Hon'ble Member Secretary, Gujarat State Legal Services Authority, Ahmedabad. The venue was kept at the Mini-Conference Hall of the District Court Complex, Bharuch. The below mentioned points were discussed;

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a) Hon'ble MS, GSLSA, made it clear to the company that, it was to pay an amount of Rs.25 Lakhs within 10 days from the original date of the order of the Hon'ble Tribunal, i.e. on before 18-06-2020. Thereafter the Company approached Hon'ble Apex Court and vide its order dated 22-06-2020 stayed the order of the Hon'ble Tribunal dated 8th June, 2020 *qua* payment of displaced persons and further directed the Company to make payment within 10 days and that is how time to deposit the required amount was extended till 02-07-2020. However, even after the lapse of 23 days the Company did not make the payment of the outstanding amount and is disputing the payment without any order from the appropriate forum to support its objection.

b) Finally, the HR Manager of the company agreed to withdraw all its objections which were raised against the disbursement of the interim compensation.

21. Later, on the very same day, disbursement of Rs. 15 lacs was made by RTGS directly into the bank account of Smt. Parvati Buddhsen Kori, mother of the deceased, late Mr. Arun Kori.

22. Thereafter on 30-07-2020 the SDM, Bharuch sent us the copy of another letter demanding Rs. 09 Crores 90 Lakhs from the company. He has also submitted a list of 58 persons eligible for compensation out of which disbursement was made to 43 injured persons persons and 07 cases are in process. As far as cases of deceased persons are concerned, the Company has already made payment of Rs.15 Lakhs or more to the legal heirs of the deceased in Three (03) cases, in Two (02) cases the compensation has been disbursed, as ordered by the Hon'ble Tribunal and in Six (06) cases we are in process to disburse the amount of compensation. It is most respectfully submitted that we could not disburse the amount of compensation in time, as in most of the cases we do not have original documents or there is an issue of opening of a bank accounts of the beneficiaries in their parent State, where there is still a lockdown.

23. Thus, this report states in detail the steps taken till date 30-07-2020, in consonance with the order dated 08-06-2020, passed by the Tribunal. Further report shall be submitted as soon as the compensation amount gets disbursed to all the affected persons.

Yours Sincerely,

(Jimmy Zarir Mehta)
Secretary,
District Legal Services Authority,
Bharuch.

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