

BEFORE THE NATIONAL GREEN TRIBUNAL KOLKATA

OA ~~Appeal~~ No. 28 of 2020 (EZ)

Sanjay Chauhan

Applicant

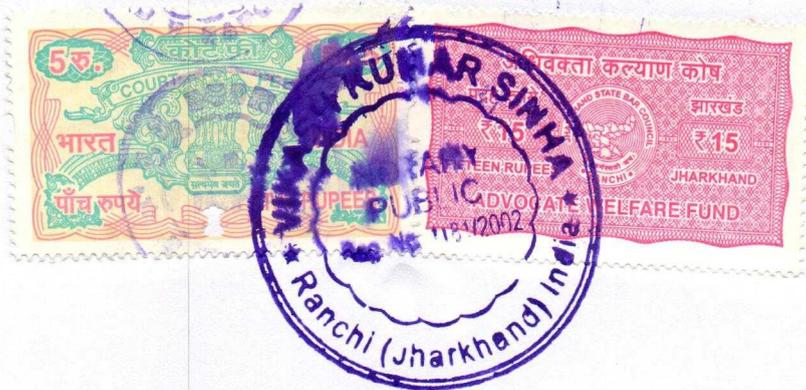
Vs.

Central Coalfields Ltd. & Ors.

Respondents

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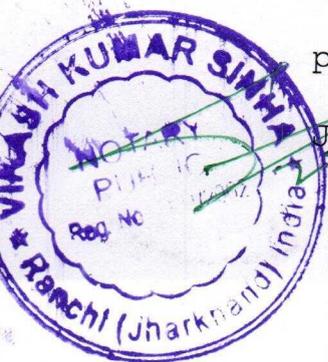
Sanjay Chauhan
Applicant

Vs.

Central Coalfields Ltd. & Ors.
Respondents

Supplementary Counter Affidavit on behalf of
Respondent No. 4 Jharkhand State Pollution
Control Board in compliance of order dated
08.12.2021.

I Yatindra Kumar Das, son of Late K.K.Das
presently posted as the Member Secretary,
Jharkhand State Pollution Control Board, H.E.C,



Authorized Under Notaries Act-1956
© Notaries Rules, 1956 by Govt. of
Jharkhand Ranchi, India.

27 JAN 2022

Dhurwa, Ranchi, and am duly authorized and here by solemnly state and affirm as follows :-

1. That at present, I am working and posted as the Member Secretary, Jharkhand State Pollution Control Board, H.E.C, Dhurwa, Ranchi and as such, I am well acquainted with all the facts and circumstances of this case.
2. That I have gone through the order dated 08.12.2021 passed by Hon'ble NGT, Eastern Zone Bench, Kolkata and has understood the contents therein.
3. That, I have been authorized to swear this affidavit on behalf of the Respondent No-4. Jharkhand State Pollution Control Board (JPCB) by the competent authority. Further it is stated that I have gone through the relevant files and records.
4. That, it is humbly stated and submitted that based on the inspection report submitted by the Regional Officer, JPCB Regional Office Hazaribagh, the Board has issued directions to M/s Amrapali Opencast Coal Mines of M/s

27 JAN 2022



Central Coalfields ltd. under Section 5 of Environment (Protection) Act, 1986 and under Section 33(A) of Water (Prevention & Control of Pollution) Act 1974 & Section 31 (a) of Air (Prevention & Control of Pollution) Act 1981 to deposit the Environment Compensation of INR. 1,35,00,000/- (Rupees One Crore Thirty Five Lakhs only) within 30 days of the issuance of the letter with a condition that in case of failure to do so an interest of 12% per annum will be charged and legal action may be initiated.

27 JAN 2022

Photocopy of the direction issued to M/s Amrapali OCP, CCL vide Boards' letter no. B-209, Ranchi dated 25.01.2022 is enclosed herewith as

Annexure- I



5. That the statement made in forgoing paragraphs are true to my knowledge in annexure are true copy of its original.

Yashendra Kumar
DEPONENT

VERIFICATION:

Verified at Ranchi on this the day ofJanuary, 2022 that the averments & facts stated herein above are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

Yashendra Kumar
DEPONENT

Jai
Sharma
E/o SRI Y
27/01/22

27 JAN 2022



Vikash Kumar Sinha
NOTARY PUBLIC, RANCHI

Signature Attested on
identification of Lawyer



JHARKHAND STATE POLLUTION CONTROL BOARD

TOWNSHIP ADMINISTRATION BUILDING, HEC COMPLEX, DHURWA, RANCHI 834004
Telephone: 0651-2400850 (Fax)/ 2400851/2400852/2401847/2400979/2400139

Ref. No:- B-209

Ranchi, Dated:- 25/11/2022

From,
Yatindra Kumar Das,
Member Secretary.

To,
The Project Officer,
M/s Amrapali OCP,
At: - Tandwa, Chatra.

ORDER

Sub: - Direction under section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974 and 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981 - Regarding.

Whereas, Environmental Clearance was granted for "Amrapali opencast coal mining project of M/s Central Coalfields Ltd. Located in part of village Khumarang Khurd, Khumarang Kalan, Ursu, Binglat, Honhe, Tehsil Pachra Block on the east and Koed block on the west, District Chatra, Jharkhand" over an ML area of 1426.08 Ha with envisaged rated capacity of mine 12 MTY by MoEF, GoI vide F. No. J-11015/109/2003-IA.II(M) dated 03.01.2006.

Whereas, Environment Clearance was granted under clause 7(ii) of EIA Notification, 2006 for "Amrapali Opencast Coal Mine from 12 MTPA to 14.4 MTPA (Peak) in an ML area of 619.87 ha of M/s Central Coalfields Limited located in District Chatra (Jharkhand)" by MoEF&CC vide MoEF&CC vide F. No. J-11015/109/2003-IA-II(M) dated 20.03.2020.

Whereas, Environmental Clearance was granted for "Expansion of Amrapali Opencast Coal Mine from 14.4 MTPA to 20.16 MTPA (Peak) in an ML area of 619.87 ha of M/s Central Coalfields Limited located in District Chatra (Jharkhand)" by MoEF&CC vide F. No. J-11015/109/2003-IA (M) dated 10.05.2021.

Whereas, the first Consent-to-Establish (CTE) was granted to your Unit by the Board vide Ref No. 3502 dated 09.06.2003.

Whereas, you were granted Consent to Establish (CTE) vide Board's Ref. No. JSPCB/HO/RNC/CTE-7811934/2021/7 dated 08.01.2021. The relevant part of which is as follows:-

PROJECT	SITE AREA		Investment (Rs)	Product & Capacity	Period of CTE
	Plot Nos.	Area			
Before Expansion	As per EC	619.87 Ha (as per EC)	85811 Lacs (as per EC)	Raw Coal - 14.4 MTPA (as per EC granted vide dated 20.03.2020)	Date of issue to six months.

Whereas, the last CTO was granted to your unit vide Board's Ref No. JSPCB/HO/RNC/CTO-10829845/2021/1692 dated 31/12/2021. The relative part of which is as follows:-



PROJECT	SITE AREA		Investment (Rs)	Product & Capacity	Period of CTO	
	Plot Nos.	Area			Date of issue	to
Before Expansion	As per EC	619.87 Ha (As per EC)	85811 Lacs (As per EC)	Raw Coal - 14.4 MTPA (as per EC granted vide dated 20.03.2020)	31/12/2022	

Whereas, an Original Application No. 28/2020/EZ Sanjay Chauhan versus Central Coalfields Ltd. & Ors. (Amrapali Opencast Coal Mining Case) has been filed by the applicant before the Hon'ble NGT, Eastern Zone Bench, Kolkata pointing out non-compliance of the conditions of the environment clearance dated 03.01.2006 granted by the MoEF & CC in favour of the Central Coalfields Ltd. for the Amrapali Opencast Coal Mine situated in Karanpura region of Jharkhand State. The first hearing of which was held on 11.05.2020. In which the Hon'ble Tribunal constituted a Committee comprising of the following: -

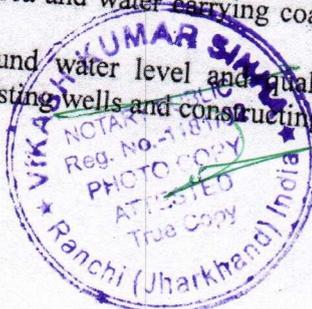
- (i) Regional office, MoEF & CC, Ranchi
- (ii) Regional office, CPCB, Regional office, Kolkata
- (iii) The Jharkhand State Pollution Control Board
- (iv) Dr. Sharad Lele, Member of the Expert Appraisal Committee, MoEF & CC.

The committee was directed to visit the project in question, verify on the factual aspects and submit a report.

Whereas, the committee has visited the site (Amrapali Open Cast Project) on 01/09/2021 and submitted its report (Copy of Committee's Report already shared).

Whereas, in light of the committee's report a show cause notice was issued to the Unit vide Board's Ref. No. B-1992 dated 14.12.2020 for the non-compliance observed during the site inspection which is as follows: -

- 1) No Railway siding and CHP has been constructed till date. Whereas, you had been directed to construct the same as per EC granted dated 03.01.2006; thereby coal is being transported through road to Shivpur railway siding which causes coal dust to be flowing off the road into forest areas and agricultural fields, nallahs and ponds;
- 2) The Shivpur railway siding does not complies with the CPCB's 2015 guidelines for environmental management of railway siding; the water sprinkling in railway siding is done through bore well which do not have CGWA clearance;
- 3) Development of green belt in and around the mine site was found completely inadequate;
- 4) No measures have been taken to prevent the surface runoff;
- 5) Retaining wall constructed around Honhe OB dump and Binglat OB dump has not been constructed in proper manner; gaps have been left and the wall was found very weak; which may result flowing of silt to outside area/low lying area;
- 6) Catch drain and siltation pond has also been constructed around the Honhe OB dump but at one place, it was found that the flow from the catch drain was directed out of the project boundary, without any sedimentation tank, which may result flowing of water with silt to low lying area and ultimately to the nearby river;
- 7) Road construction at Honhe OB dump was done using material excavated from material OB dump resulting in loss of grass cover and rendering the slope of the dump unstable;
- 8) The weigh bridge area is situated in located at higher elevation from which runoff (from rain and sprinklers) will end up in low lying areas and eventually into the river; No catch drain or walls around this area and water carrying coal flows in the low lying area and ultimately to river Barki;
- 9) Regular monitoring of ground water level and quality is nor being carried out by establishing a network of existing wells and constructing new piezometers;



Whereas, in response to the show cause notice you had submitted your compliance report vide your Ref. No. PO/Amrapali/EC(NGT)/Compliance/2020-21/2544 dated 29.12.2020.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh was directed to submit a verification report specifically in the light of the reply submitted by the Unit vide Board's Ref. No. - B - 04 dated 01/01/2021.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh was again directed to submit the current Compliance Status Report Vide Board's Ref. No. B - 1146, Ranchi, dated 16.08.2021.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh has submitted the Inspection Report vide his Memo. No. 843 Hazaribagh, dated 19/08/2021. The observations of which is as follows: -

1. Construction of CHP & railway siding -
For the construction of coal silo and CHP work has been awarded to M/s L & T Limited and for the railway siding work has been awarded to RITES, time bar is for 2 years.
2. Presently coal is sent to M/s Shivpur Railway Siding approx. 6 kms. away by covered trucks/hyvas. Water spraying is being done on transport route.
3. Toe wall has been constructed around the OB dump at Binglat 1 km length at North-West side of OB dump. Extended toe wall of 450 meters has been under constructed and settling pit 2 nos. constructed to settle the dusts of the run off. Garland drain about 2 km length has been constructed around Honhe dump and settling pit has been constructed at the end.
4. Tree plantation has been done on reclaimed land from beginning to monsoon, 2021. Total 90,000 trees has been planted.
5. Water spraying on haul roads is being done by tankers regularly.
6. PM10 analyzer has been installed for the monitoring of pollutants in Ambient Air. CAAQMS system at project office is under progress.
7. Roof top rain water is collected in rain water harvesting pit.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh was again directed to submit the Inspection Report with clear recommendation with regard to each & every observation made by the Committee Vide Board's Ref. No. B - 2272, Ranchi, dated 27.12.2021.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh has submitted the Inspection Report vide his Memo. No. 10 dated 07/01/2022. The observations of which is as follows: -

Observation regarding non-compliance.	Present Status
1. Non-construction of Coal Handling Plant (CHP), Silo & Railway Siding.	Unit has given the work order to M/s Larsen & Turbo Ltd. for construction of Silo & Coal Handling Plant and for construction of Railway Siding to M/s RITES Ltd. work is under progress.
2. Non-construction of Toe wall, catch drain and settling pit around OB dump.	Toe wall, Garland drain and settling pit has been constructed around the OB dump.
3. Insufficient tree plantation and green belt.	Total 89234 saplings has been planted in



<p>4. Contaminated run-off flowing into Barki River / Dudhmatia Nalla.</p> <p>5. Spontaneous combustion in coal dump.</p> <p>6. In adequate water sprinklers for controlling fugitive emission.</p>	<p>different location in Amrapali Project during the period from 2015 to 2021.</p> <p>Toe wall, Garland drain and settling pit has been constructed around the OB Dump.</p> <p>Fire fighting arrangement as well as speedy disposal of coal sent to the party.</p> <p>Water spraying on haul road and on the rout of Railway siding is being done by the movable Tankers and 40 nos. fixed water sprinklers. Water is taken from rainwater harvesting pond constructed within the lease hold area.</p> <p>Unit has obtained the permission for withdrawing ground water 4220 m3/d for sprinkling & other purpose.</p> <p>Unit has 5 Tankers of 28 KL, 03 Tankers 12 KL, 10 Tankers 20 KL, 03 Tankers 12 KL, 03 Tankers 8 KL, 01 Tankers 18 KL, 01 Tankers 15 KL</p>
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Moreover, in light of the above facts it has also been recommended to take action for not constructing Railway Siding, Silo & CHP which is given in EC conditions.

Whereas, the competent Authority has ordered to calculate the Environmental Compensation against your Unit as per the Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund. The detail of calculation of Environmental Compensation is detailed as below:-

Nature of violation – Discharges in violation of consent conditions, mainly prescribed standards/consent limits.

Basis to levy the Environmental Compensation – Pollution Index

The environmental compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

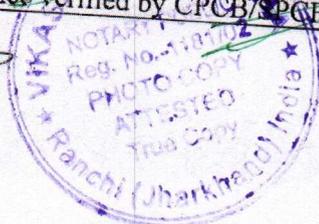
Where,

- EC – Environmental Compensation
- PI – Pollution Index of Industrial Sector
- N – Number of days of violation took place
- R – A factor in rupees for EC
- S – Factor of scale of operation
- LF – Location Factor

Now in this case,

PI is to be taken as 75 as the industry belongs to Red category (as per CPCB's guidelines.)

N is to be taken as 480 days from 14/09/2020 to 07/01/2022 (N – Number of days of violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC).



R is to be taken as 250 (as per CPCB's guidelines).

S is to be taken 1.5 as the unit belongs to Large Scale Unit as per Notification No. - S.O. 170^{1f}-E).—dated 01/06/2020 of Ministry of Micro, Small and Medium Enterprises (S could be 0.5 for micro or small, 1.0 for medium and 1.5 for large units as per CPCB Guidelines).

LF is to be taken as 1.00 as the total population of Tandwa is less than one million as per Census Data 2011 (District Census Handbook, Chatra).

Therefore,

$$\begin{aligned} \text{EC (Per day)} &= \text{PI} \times \text{R} \times \text{S} \times \text{LF} \\ &= 75 \times 250 \times 1.5 \times 1 \\ &= \text{INR } 28,125.00 \end{aligned}$$

Henceforth, the Environmental Compensation for one day comes out to be INR 28,125.00 So the total Environmental compensation for 480 days comes out to be **INR 1,35,00,000.00** (i.e. **Rupees One Crore Thirty Five Lakhs only**).

Now, therefore, in view of the above and by exercising the powers conferred under section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981; it is hereby directed to deposit the Environmental Compensation of **INR 1,35,00,000.00** (i.e. **Rupees One Crore Thirty Five Lakhs only**) within 30 days of issuance of this letter, in case of failure to do so an interest of 12 % per annum will be charged and legal action may be initiated.

This issues with the approval of Competent Authority.

sd/-

(Yatindra Kumar Das)
Member Secretary

Memo No.... B-209

Ranchi, Dated... 25/11/2022

Copy to: The Regional Officer, JSPCB Regional Office – cum – Laboratory, Hazaribagh for information and necessary action from his end.

(Yatindra Kumar Das)
Member Secretary

