

BEFORE THE NATIONAL GREEN TRIBUNAL KOLKATA

OA ~~Appeal~~ No. 37 of 2020 (EZ)

Sanjay Chauhan

Applicant

Vs.

Central Coalfields Ltd. & Ors.

Respondents

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Notary Public under provisions of Section 8 of the Notaries Act, 1956
Ranchi (Jharkhand)

BEFORE THE NATIONAL GREEN TRIBUNAL KOLKATA

O.A. No: 37 of 2020 (EZ)

Sanjay Chauhan
Applicant

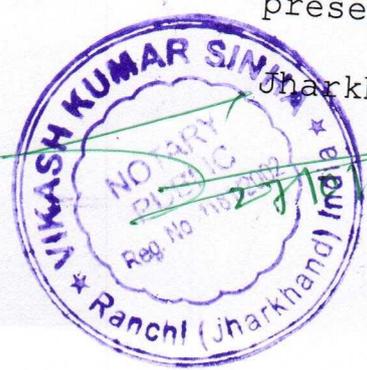
Vs.

Central Coalfields Ltd. & Ors.
Respondents

27 JAN 2022
NRF 12

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

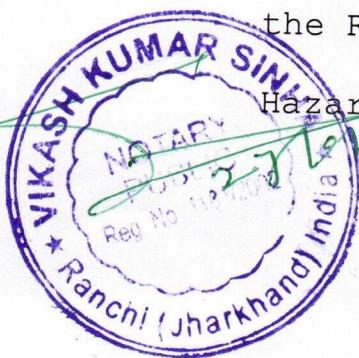
I Yatindra Kumar Das, son of Late K.K.Das
presently posted as the Member Secretary,
Jharkhand State Pollution Control Board, H.E.C,



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 (JPSCB) 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, JSPCB Regional Office Hazaribagh, the Board has issued directions

27 JAN 2022

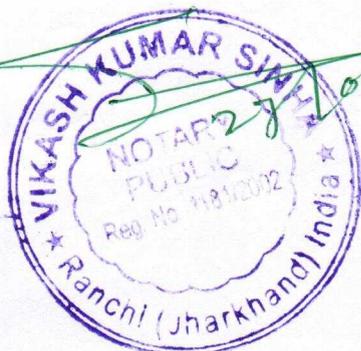


to M/s Purnadih Opencast Coal Mines of M/s Central Coalfields ltd. under Section 5 of Environment (Protection) Act, 1986 and under Section 33(A) of Water (Prevention & Control of Pollution) Act 1974 & Section 31 (a) of Air (Prevention & Control of Pollution) Act 1981 to deposit the Environment Compensation of INR. 13,02,18,750/- (Rupees Thirteen Crore Two Lakhs Eighteen Thousand Seven Hundred Fifty 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.

Photocopy of the direction issued to M/s Purnadih OCP, CCL vide Boards' letter no. B-215, Ranchi dated 25.01.2022 is enclosed herewith as

Annexure- I

27 JAN 2022



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

[Handwritten signature]

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.

[Handwritten signature]

DEPONENT

27 JAN 2022

Signature Attested on
Identification of Lawyer

[Handwritten signature]
Eno 57114
27/01/22



[Handwritten signature]
Vikash Kumar Sinha
NOTARY PUBLIC, RANCHI



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-215

Ranchi, Dated:- 25/1/2022

From,

Yatindra Kumar Das,
Member Secretary.

To,

The Project Officer,
M/s Purnadih OCP,
At: -Henzeda, Katki, Dendua,
Dist - 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 "Purnadih opencast Expansion Coal Mine Project (3 MTPA with a peak production of 3.45 MTPA) of M/s Central Coalfields Ltd. located in villages Dembua, Henjda, and Kutki, in Block Tandwa, in District Chatra, Jharkhand" over an ML area of 751.74 Ha. by MoEF, GoI vide F. No. J-11015/36/2007-IA.II(M) dated 19.05.2009.

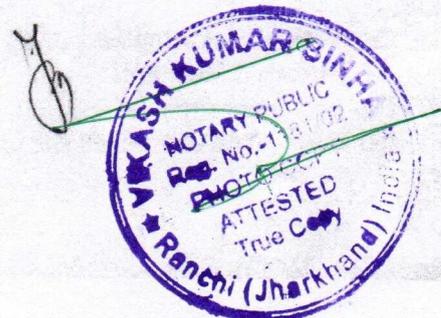
Whereas, No Objection Certificate (Consent to establish) to M/s Purnadih Open cast Project (Coal) for setting up a Open Cast Coal Mines for Manufacturing of Coal at Mauza Purnadih, P.O. Bahera, Dist. Chatra (Jharkhand) for Coal Production - 3.0 Million Ton per annum by the Board vide Ref No. LN-314; Ranchi, dated 16.11.2010.

Whereas, the last CTO was granted to your unit vide Board's Ref No. JSPCB/HO/RNC/CTO-8709167/2021/180 dated 03.02.2021. The relative part of which is as follows:-

PROJECT	SITE AREA		Investment(Rs)	Product &Capacity	Period of CTO
	Plot Nos.	Area			
Before Expansion	As per EC	428.25 Ha (As per previous CTO)	201.98 Crore	Coal - 3.0 MTPA	31/12/2022

Whereas, an Original Application No. 37/2020/EZ Sanjay Chauhan versus Central Coalfields Ltd. & Ors. (Purnadih Opencast Coal Mining Case) has been filed by the applicant before the Hon'ble NGT, Eastern Zone Bench, Kolkata alleging non-compliance of the conditions of the environment clearance dated 19.05.2009 granted by the MoEF & CC in favour of the Central Coalfields Ltd. for the Purnadih Opencast Coal Mine situated in Chatra district of Jharkhand State. The first hearing of which was held on 22.06.2020. In which the Hon'ble Tribunal constituted a Committee comprising of the following: -

(i) the Regional office, MoEF & CC, Ranchi;



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- (ii) the Regional office, CPCB, Regional office, Kolkata;
(iii) the Jharkhand State Pollution Control Board (State PCB) and,
(iv) Dr. Sharad Lele, Member of the Expert Appraisal Committee, MoEF & CC.
The committee was directed to jointly inspect the project in question, verify on the factual aspects and submit a report.

Whereas, the committee has visited the site (Purnadih Open Cast Project) on 03/09/2021 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 your Unit vide Board's Ref. No. B-2016 dated 15.12.2020 for the non-compliance observed during the site inspection which is as follows: -

- (i) Separate top soil dump has not been created.
- (ii) No catch drain, siltation pond and retaining wall was found around the coal dumped resulting in risk of polluted runoff entering low lying area; coal dust from roads and adjacent drains has chances of flowing into river Damodar.
- (iii) Green belt had not been developed in adequate manner.
- (iv) Coal dust emission was found at feeder breaker area of KDH railway siding, inadequate green belt development around siding and coal dust was also found flown to seasonal nalla from the pucca drains constructed by project authorities along the road leading to KDH siding.
- (v) Ground water level data was not submitted.
- (vi) CHP and railway line/siding have not been constructed till date. As a result, coal is being transported through road as a result the coal dust was observed to be flowing off the road into drains, nallas and even into river Damodar.
- (vii) During coal transportation, coal was not being covered with tarpaulin.
- (viii) Mouth of pucca drains constructed by you along the road used for coal transport were let into the Damodar river without any effective arrangement for preventing coal dust flowing into the river.
- (ix) From one of the coal dumps in the project site the surface run off was flowing out without any catch drain, siltation pond etc.

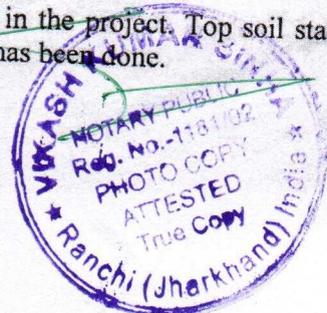
Whereas, in response to the show cause notice you had submitted your compliance report vide your Ref. No. PO(Purnadih)/20-21/envt/1017 dated 29.12.2020.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh was directed to submit verification report specifically in the light of the reply submitted by the unit vide Board's Ref. No. - B - 03 dated 01.01.2021.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh was again directed to submit the current Compliance Status Report, in light of the observations of the committee Vide Board's Ref. No. B- 1144, Ranchi, dated 16.08.2021.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh has submitted the Inspection Report vide his Memo. No. 842; Hazaribagh, dated 19/08/2021. The observations of which is as follows: -

1. Catch drain and siltation pond has been constructed to prevent run off from the coal dump/overburden dump.
2. Top soil dump-separate top soil dump has been created in the project. Top soil stacked and placed at an earmarked site on which tree plantation has been done.



3. All the coal dump are internal in nature within the mine lease area.
4. Green belt - tree plantation has been done along road and on reclaimed land 24.9 Ha.
5. Piezometer - for the ground water monitoring piezometer has been installed.
6. Water sprinklers - 30 nos. of fixed water sprinklers have been installed along haul road inside the mine area. Water Spraying is also done by 2 nos. of 28 KL tankers on haul road.
7. No CHP - CHP has been constructed. Coal is sent to KDH railway siding by covered trucks/hyvas.
8. Surface rain water is collected in abandoned coal mine pit and roof top rain water is collected in rain water harvesting pit.

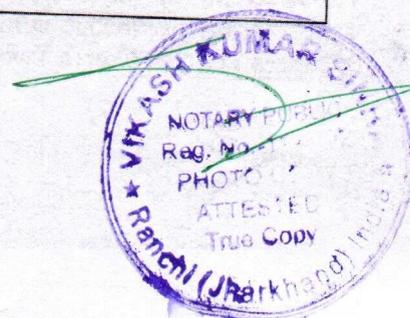
Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh was again directed to submit the Current Inspection Report with clear recommendation with regard to each & every observation made by the Committee Vide Board's Ref. No. B - 2278, Ranchi, dated 27.12.2021.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh has submitted the Inspection Report vide his Memo. No. 05 dated 03.01.2022. The observations of which is as follows: -

Question	Finding of previous inspection report	Recent inspection report
Top soil is not kept separately.	<p>a) Mixing of topsoil with overburden (OB) material, instead of creating a separate topsoil dump.</p> <p>b) No catch drain, retaining wall, grassing and vegetation for external OB dump.</p> <p>c) No catch drain, siltation pond and retaining wall around coal dump, resulting in risk of polluted runoff entering low-lying area; coal dust from roads (from Purnadih OCP to KDH railway siding) and adjacent drains had chances of flowing into river Damodar if proper precautions not taken.</p> <p>d) Green belt inadequate around roads and plantation on reclaimed lands inadequate; no plantation activity in last few years.</p> <p>e) KDH siding not in compliance with norms; coal dust emission at feeder breaker area of KDH railway siding, inadequate green belt development around siding, and drains from KDH siding may carry pollution into nearby nallahs/streams unless preventive measures are taken.</p>	<p>It is an internal dump and on 9 ha. area of the dump tree plantation has been done.</p> <p>External OB dump is on 6 ha. of land and tree plantation with grassing has been done, which is settled.</p> <p>Coal from Purnadih to KDH railway siding is carried by the tarpaulin covered Trucks / Hyvas. Regular water spraying is being done on road to suppress the dusts. Tree plantation along road has been done.</p> <p>Tree plantation along road has been done.</p> <p>KDH railway siding lies within Ranchi District.</p>

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	f) It was not clear how groundwater monitoring was being done; groundwater level data had not been submitted to MOEFCC, and piezometer did not appear to have been installed.	Unit has installed the Piezometer to monitor ground water level.
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Moreover, in light of the above facts it has also been recommended to take action for not constructing toe wall, garland drain and settling pit around the external OB Dump.

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 4630 days from 19/05/2009 to 20/01/2022 (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. 1702(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,

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

Henceforth, the Environmental Compensation for one day comes out to be INR 28,125.00 So the total Environmental compensation for 4630 days comes out to be INR 13,02,18,750.00 (Rupees Thirteen Crores Two Lakhs Eighteen Thousand Seven Hundred Fifty 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 INR 13,02,18,750.00 (i.e. Rupees Thirteen Crores Two Lakhs Eighteen Thousand Seven Hundred Fifty 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. 215

Ranchi, Dated. 25.01.2022

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

(Yatindra Kumar Das)
Member Secretary

OK

