

BEFORE THE NATIONAL GREEN TRIBUNAL KOLKATA

OA ~~Appeal~~ No. 39 of 2020 (EZ)

Sanjay Chauhan

Applicant

Vs.

Central Coalfields Ltd. & Ors.

Respondents

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Jharkhand, Ranchi (India)

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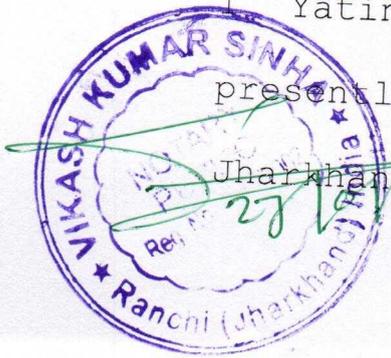
Central Coalfields Ltd. & Ors.

Respondents

27 JAN 2022

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 to M/s Piparwar Open-cast 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. 3,12,46,875/- (Rupees Three Crore Twelve Lakhs Forty Six Thousand Eight Hundred Seventy Five 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 Piparwar OCP, CCL vide Boards' letter no. B-208, Ranchi dated 25.01.2022 is enclosed herewith as **Annexure- I.**

27 JAN 2022



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

Y. Atul 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.

Y. Atul Kumar

DEPONENT

27 JAN 2022



Vikash Kumar Sinha
NOTARY PUBLIC, RANCHI

[Signature]
Ex-Sub Jy
Mentha
27/01/22
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-208

Ranchi, Dated:- 25/11/2022

From,
Yatindra Kumar Das,
Member Secretary.

To,
The Project Officer,
M/s Piparwar OCP,
At: - PO- Dakra,
Distt-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.

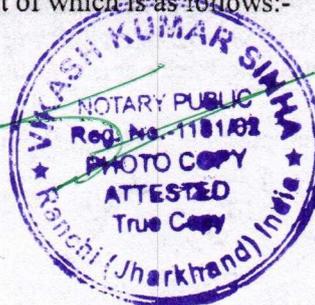
Whereas, Environmental Clearance was granted for "Piparwar Opencast Coal Mine Project (from 6.5 MTPA to 10 MTPA) of M/s Central Coalfields Ltd. located in villages Mangardaha, Benti, Kichto, Bahera, Kanuada, Rajdhar, Kalyanpur, Karo and Bijain in Tehsil Tandwa, District Chatra, Jharkhand" over an ML area of 1120.25 Ha by MoEF, GoI vide F. No. J-11015/186/2007-IA-II(M) dated 11.06.2007.

Whereas, Modification of Environmental Clearance was granted for "Introduction of peak production capacity of 11.5 MTPA in the Environment Clearance granted to Piparwar OCP (10 MTPA (nominal) of M/s Central Coalfields Ltd., Located in Piparwar Area, Dist. Chatra, Jharkhand" over an ML area of 1120.25 Ha by MoEF vide F. No. J-11015/240/2011-IA.II(M) dated 28.02.2012.

Whereas, Environmental Clearance was granted for "Expansion, under 7(ii) of EIA Notification 2006, of Piparwar Opencast Project (Normative capacity 10 MTPA to 12.50 MTPA and Peak capacity 11.5 MTPA to 14.375 MTPA in an ML area 1120.25; Latitude 23°42'38" N to 23°44'45" N & Longitude 85°01'34" N to 85°03'15" E) of M/s Central Coalfields Ltd., Dist. Chatra, Jharkhand" by MoEF vide F. No. J-11015/76/2013-IA.II(M) dated 20.05.2014.

Whereas, No Objection Certificate (NOC) was granted to "M/s Piparwar Open Cast Mine and Washery Project, CCL Village - Piparwar P.O. - Bachra, Dist. - Chatra for expansion of Open Cast Coal Mines for production of Coal at plot no: - mentioned in notification of Govt. of India SO-761 dated 17/02/1982, Mauza - Kichto, Magardaha, Benti, and Bahera, P.O - Bachra, Dist - Chatra" over Total lease Area - 1120.25 Ha. and Coal Production (After Expansion) - 10.0 MTY by the Board vide Ref No.263 dated 29.01.2007.

Whereas, the last Consent to Operate (CTO) was granted to Piparwar OCP, Occupier Name: Central Coal Fields Limited vide Board's Ref No. JSPCB/HO/RNC/CTO-6847966/2020/714 dated 26.03.2020. 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 and land schedule	1120.25 Ha (As per EC, FC and previous CTO)	1093.65 Crore (As per EC, FC and previous CTO)	Raw Coal - 10 MTPA (as per EC)	10/06/2020

Whereas, an Original Application No. 39/2020/EZ Sanjay Chauhan versus Central Coalfields Ltd. &Ors. (Piparwar 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 Environmental Clearances (EC) dated 11.06.2007, 28.02.2012 and 20.05.2014 by the Central Coalfields Ltd. for the Piparwar Opencast Coal Mine located in Chatra District, Jharkhand issued by the Ministry of Environment, Forests and Climate Change (MoEF&CC). 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;
- (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.

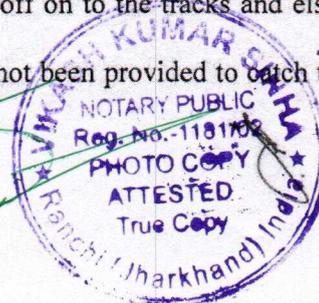
The committee was directed to inspect the project in question, verify on the factual aspects set out by the Applicant in the application and submit a report.

Whereas, the Committee has visited the site (Piparwar Open Cast Project) on 02/09/2020 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-1991 Ranchi, dated 14.12.2020 for the non-compliance observed during the site inspection which is as follows: -

- (i) Railway siding has not been constructed till date. Whereas, you had been directed to construct the same by June'2014 through the EC granted dated 20.05.2014.
- (ii) The arrangement of coal dust suppression and run off collection at the currently used railway siding (Bachra) was found poor;
- (iii) Management of storm water drains and high level of pollutants in effluent from workshop was not found up to the mark;
- (iv) Transportation of coal is being done through road which is violation of EC;
- (v) The arrangement for containing and treating the run off water from the coal yard were inadequate;
- (vi) Catch drain around the coal yard has not been developed;
- (vii) In the Piparwar/Rajdhar siding, the arrangements at the siding did not confirm to the 2015 PCB guidelines for railway sidings.
- (viii) Road transport of coal was resulting in much spillage on the road and consequent air and water pollution.
- (ix) The truck transporters have dumped debris on to the river to create a temporary crossing in complete violation of Rules regarding river protection.
- (x) The trucks are operating without any tarpaulin covering on the coal.
- (xi) In the Bachra railway siding, the platform was piled with a thick layer of coal dust, which eventually gets washed off on to the tracks and elsewhere; following observations were also found:

- Catch drain has not been provided to catch the runoff and settling tank to remove the coal dust;



- Screen has not been provided around the siding;
- Three tier plantation has not been developed outside the walls to act as wind barrier;
- A primary school is there which is next to Bachra siding; the dust pollutants directly endanger the health of the school children.

Whereas, in response to the show cause notice you had submitted your compliance report vide Unit's Ref. No. PO(Ashok)/Piparwar/Env./Show-cause/2020/ dated 30.12.2020.

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 - 14 dated 04/01/2021.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh was again requested to submit the current Compliance Status Report vide Board's Ref. No. B- 1145, Ranchi, dated 16.08.2021.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh has submitted the Inspection Report vide his Memo. No. 844 Hazaribagh, dated 19/08/2021. The observations of which is as follows: -

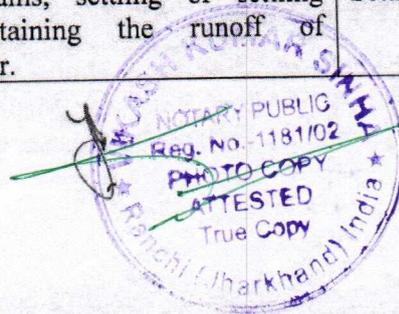
1. M/s Piparwar OCP has been closed forever.
2. As per mine closure plan reclamation of mine is being done.
3. Water spraying is being done on haul road and dust prone on reclamation area.
4. Tree plantation have been done on reclamation area.

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 - 2261, Ranchi, dated 23.12.2021.

Whereas, the Regional Officer, JSPCB Regional Office, Hazaribagh has submitted the Inspection Report in respect of the query raised in the Hon'ble NGT, EZ Bench in the O.A. No 39/2020 (EZ) order dated 08/12/2021 against the M/s Piparwar OCP vide his Memo. No. 04 dated 03/01/2022. The observations of which are as follows: -

Sl. No.	Query raised in the NGT Order on 8 Dec, 2021.	Compliance
1.	Coal transport to the Bachra Siding by road (a distance of 8 kilometres) continued for 5.5 years beyond the date provided in the Environmental Clearance of 2014.	--
2.	So far as the status of Piparwar / Rajdhar Siding is concerned, the Committee has noted that the arrangements at the siding where front loaders were being deployed did not conform to the Central Pollution Control Board's 2015 Guidelines for railway sidings, namely, there is no screen, no green belt, no arrangements (drains, settling or settling tanks) for containing the runoff of contaminated water.	Mobile Water Sprinklers is being used for dust suppression at Piparwar Siding. Wind Screen has been constructed at Piparwar Siding. Photograph attached. PM 10 Analyser has been installed. Settling Tank has been constructed.

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3.	The Committee has also noted that the trucks were operating without tarpaulin cover on the coal.	--
4.	The coal mining in the coal yard is still being transported. The Committee has recommended that the project proponent should implement the conditions of Mine Closure Plan as per rules and take all maintenance and environmentally protective actions.	Road for Coal transportation from Ashok OCP to Railway Siding passes through Piparwar OCP because of it being the Shortest route and it also helps in avoiding Public road. Mine Closure Plan is being implemented in Piparwar OCP. Backfilling, Land Scapping, Reclamation & tree plantation has been done. 276 Ha. of degraded mine land has been reclaimed with plantation over it.

Moreover, in light of the above facts it has also been recommended to take action for not constructing Railway Siding, within the scheduled time mentioned in the EC granted in 2014.

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

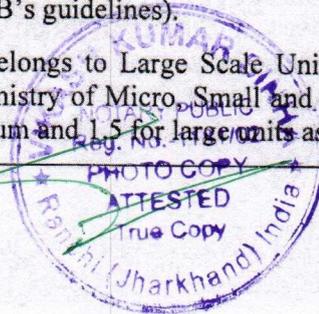
Now in this case,

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 1111 days from 01/07/2014 to 15/07/2017 (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).



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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 1111 days comes out to be **INR 3,12,46,875.00** (i.e. **Rupees Three Crores Twelve Lakhs Forty Six Thousand Eight Hundred Seventy Five 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 **3,12,46,875.00** (i.e. **Rupees Three Crores Twelve Lakhs Forty Six Thousand Eight Hundred Seventy Five 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-208*.....

Ranchi, Dated...*25/1/2022*.....

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

(Yatindra Kumar Das)
Member Secretary

