

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)



I.A. NO. 94 & 95 OF 2020

Earlier IN Original Application No 226/2020
Original Application No. 68/2020 (CZ)

Om Puri

Applicant(s)

Versus

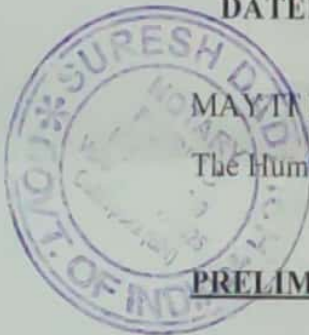
Hindustan Zinc Ltd. & Ors.

Respondent(s)

REPLY BY NON-APPLICANT/ORIGINAL PETITIONER TO
THE APPLICATION FILED BY RESPONDENT NO. 1,
UNDER RULE 24 OF THE NGT (PRACTICE AND
PROCEDURE) RULE, 2011 FOR RECALLING THE ORDER
DATED 18.08.2020 PASSED BY THIS HON'BLE TRIBUNAL

MAY IT PLEASE YOUR LORDSHIP:-

The Humble non-applicant Om Puri submits here as under:-

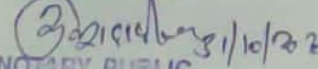


PRELIMINARY SUBMISSIONS:-

1. That, at the very outset it is necessary to know as to why this IA's 94&95 of 2020 in OA no. 68/2020 is being transferred to Principal Bench of your Lordship, when other similar nature petitions are being heard by Other Bench consisting of Hon'ble JM Mr. Sheo Kumar Singh & Hon'ble EM Dr. S.S. Garbyal. It is humbly submitted vide an application filed by R-1/ IA applicant dt. 07.09.2020 under rule 24 of the NGT (Practice and Procedure) Rule, 2011 to recall Para 7 and 8 of Order dated 18.08.2020 passed by this Hon'ble Tribunal. The grounds taken by the IA Applicant in the Application is that the Order is contrary to

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section 19(4)(i) of the NGT Act and also as per the averments made in para 6 at page 6 of their IA application order dated 18.08.2020 has been obtained by abusing the process of this Hon'ble Tribunal.

2. That, the Counsel for the Applicant in IA 94 & 95 of 2020 / Respondent no. 1 in OA 68 of 2020, Mr. Krishan Venugopal, Sr. Advocate had repeatedly submitted during the course of arguments that Counsel for the original applicant misrepresented and obtained the order dated 18.08.2020 for calling of Report from Joint Committee, visiting the place and submitting action taken report by the Joint Committee. The Affidavit executed by the Counsel is annexed with this reply.
3. That, on the date of hearing on 18-08-2020 due to server issues could not connect the hearing through Video Conferencing. Therefore, the question of misrepresentation and obtaining the order from this Hon'ble Tribunal does not arise.
4. That, the relevant Para 7 of the Order dated 18.08.2020 is reproduced:- **".....We deem it just and proper to call a report on the matter in issue in present application, from a Joint Committee consisting of-**

(i) The Collector, Bhilwara

(ii) Rajasthan State Pollution Control Board"

Thus, there is no role of the Applicant's Counsel/Deponent to misrepresent in any manner whatsoever on dated 18.08.2020.

5. That, the Hon'ble Tribunal in its wisdom exercised the power and its jurisdictions to constitute a committee in the instant case, in order to bring ground report before proceeding ahead.

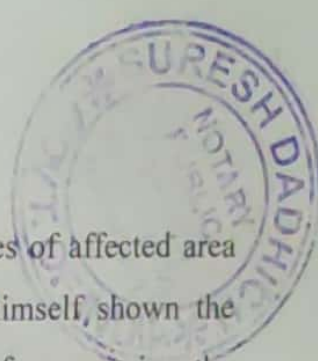
6. It is humbly submitted that this Hon'ble Tribunal in its prerogative and judicious approach proceeding ahead to call the report and challenging this Hon'ble report in its very initial stage shows the sign of fault, concealment of facts and misleading this Hon'ble Tribunal. Therefore, challenging the jurisdiction of this Tribunal should not be entertained at any stage.

7. That, the respondent Project Proponent company has been continuously suppressing the fundamental rights of the poor farmers and creates impediment in initiating lawful procedures before court of laws.

8. That, every project or activity under environmental laws requires six monthly compliance reports prepared after duly inspection by MoEF & CC, State Pollution Control Boards, therefore, avoiding any site inspection from the Committee indicates fear of enquiry in the minds of Project Proponent. It is prima facie matter of continuous illegal & unscientific way of mining is being carried out by Project Proponent/ Respondent No. 1, therefore a team of experts and MoEF & CC, Govt. of India or as deemed fit by this Hon'ble Tribunal may kindly be constituted to reveal the facts and bring the same before this Hon'ble Tribunal.

PRELIMINARY SUBMISSIONS & OBJECTIONS TO THE INTERIM APPLICATION

1. The Applicant & other farmers of the affected Villages namely Agucha, Kotiya, Rampura etc. of District Bhilwara (Rajasthan) approached the Counsel in the month of October, 2019 regarding restoration & hearing of their old cases filed earlier by Mr. SPS Nagar (Advocate).



2. That, in order to appreciate the ground realities of affected area and facts of the present case, the Counsel himself, shown the concern to first visit the affected villages before pursuing the case.

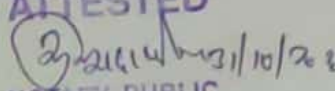
3. That, while visiting the affected villages namely Agucha, Kotiya, Rampura, etc. Tehsil Hurda of District Bhilwara (Rajasthan) on 01st November 2019 for two days, it was painful to see the ground conditions, how the poor villagers of Rajasthan are being exploited and depriving of earning their livelihood from their own agriculture land. It is also observed by the Counsel that the Local Officers, authorities are hand in gloves with the mighty company/ Project Proponent.

4. That, admittedly there is Caving, pits and big holes in the agricultural land of farmers, due to underground mining and blasting by the respondent no. 1 Hindustan Zinc Limited. This is permanent loss to particular piece of land which has turned and converted into big pits, holes measuring around 50 feet deep and 25-35 feet wide approximately depriving of cultivating the piece of agriculture land of which the farmers are owner is a permanent loss to the Applicant and his family in earning the source of their livelihood. The photographs of the caving and pits developed on the agriculture land are already annexed with the original application filed by the applicant in each case.

5. That, secondly, it was also noticed during the visit at those affected villages, Tanker water supply through big Trucks is been provided by the Company & government authorities to the families of affected farmer village since, due to the effect of mining and underground mining, underground water of

that village has become unfit for humans and animals consumption. Therefore, a regular supply of water through Tankers is also necessitated which also amounts to infringement of their fundamental rights of applicant & fellow farmers, i.e. living with dignity & liberty under Article 14 & 21 of the Constitution of India. The above instance of water supply through Tankers can also be seen in the video recorded by the Counsel, which is sent to Hon'ble Tribunal through E-mail as well as DVD by post.

6. That, at this stage, it may also be pointed out that while visiting the village i.e. on Friday, 01st November 2019, there was blasting being carried out by Project Proponent/ R-1. Blasting sound could be heard upto more than a kilometre. This sound was heard by the Counsel at around 5:30-6:00 P.M. This causes vibration in the nearby places, hutments of the poor villagers. Astonishingly, After few minutes, a resident named Yuvraj, informed that the roof of a farmer hutment collapsed. However, its routine incident occurs in the surrounding areas which causes not only monetary losses but threat to their life always persists. The whole incident was captured by the Counsel being sent along with this application in a video format.
7. That, it is pertinent to mention here at this stage that in order to appreciate the loss caused to the applicant/ residents of that village, following submission made hereinafter may kindly be taken into considerations in order to fair and square justice to the villagers/ applicants.

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8. That, it is pertinent to mention that, No farmer from such poor class of the society or their family who belongs to BPL (Below Poverty Line) shall take the risk of affixing court fees to the tune of sum of Rs. 22.50 lacs. Though, the cases when first time filed in the year 2015-16, the Hon'ble Tribunal taking into cognizance issued various directions for restoration, remedial action for betterment of the survivors. However, only due to non-pursuance of the case by the earlier counsel the matters could not rest final adjudication.

9. That, apart from caving in situation in the farmlands, the continuous poisonous and hazardous dust accumulates whole year. While understanding the grievances of the farmers it is understood that every year few inches of the top soil/ layer is required to remove for next cultivation. The upper layer of any farmland is a precious national property which is being eroded every year shall ultimately lead to loss of fertility/ crops and livelihood of the survivors. Moreover, there is a continuous fear in their minds that any time the farmland/ hutment may collapse because of underground activities by the Project Proponent. Applicant being illiterate is not able to collect more evidence except the above submissions and video DVD being submitted with this reply.

Prayer

It is respectfully prayed that the interim application may kindly be dismissed and the order dated 18.08.2020 may be upheld as legal in the interest of justice for which the replying respondent shall ever pray.

Date- 31/10/2020

Place- Bhopal

Applicant

through Counsel

(Dharamvir Sharma, Advocate)

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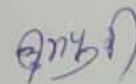
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AFFIDAVIT

I, Om Puri Son of Shri Arjun Puri, age 47 years, R/o Arniya Chouhan, Village & Post- Kothiya, Fuliakalan, Bhilwara (Raj) 311023, do hereby solemnly affirms as under:-

1. That, I the deponent being applicant to the original application is well conversant with the facts and submissions made herewith the reply.
2. That, all the contents in the reply, video sent through e-mail and DVD is true to the best of the deponent's personal knowledge.
3. That, the application is drafted by the Counsel, as per my instructions, which are true and correct.
4. That, this affidavit is executed in support of the reply and video recorded by the Counsel is of actual affected place.

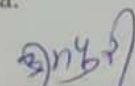


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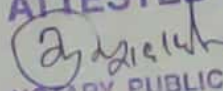
VERIFICATION

I, the above deponent, do hereby verify that the contents of this affidavit from paragraphs 1 to 4 are true to my personal knowledge and belief.

Signed and verified on this 31st day of Oct. 2020 at Bhilwara.



DEPONENT

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