

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

(Through Video Conferencing)

I.A. NO. 94 & 95 OF 2020

IN

Original Application No. 68/2020 (CZ)

Om Puri

Non-Applicant(s)

Versus

Hindustan Zinc Ltd. & Ors.

Applicant/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 these IA's 94 and 95 / 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 instant IA's filed by Applicant dt. 07.09.2020 under rule 24 of the NGT (Practice and Procedure) Rule, 2011 is filed to Recall Para 7 and 8 of Order dated 18.08.2020 passed by this Hon'ble Tribunal. The Grounds taken by the Applicant/ R-1 in the Application is that the Order is contrary to section 19(4)(i) of

the NGT Act and also as per the averments made in para 6 at page 6 of their IA 94/2020 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 present IA 94 & 95 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 Counsel for the original applicant is filing Affidavit along with Original Applicant regarding above contentions as averred in IA 94/2020 of obtaining order is annexed with explanation and facts elaborated in this reply.
3. That, on the date of hearing on 18-08-2020 due to server issues, Counsel could not connect and join 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 Non-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. Therefore, challenging this Hon'ble Tribunal Order for calling report in its very initial stage shows the sign of fault, concealment of facts and misleading this Hon'ble Tribunal by applicant/ R-1. Hence, challenging the jurisdiction of this Tribunal passed in the interest of justice 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 creating 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 carried out by Project Proponent/ Respondent No. 1, therefore a team of experts from 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 Non-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 & re-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 showed 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 Hurd, of District Bhilwara (Rajasthan) i.e. from 01st November 2019 for two days, it was painful to see the ground conditions, how the poor villagers of District Bhilwara (Rajasthan) are being exploited and deprived of earning their livelihood from their owned agriculture land. It was 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 developed in the agricultural land of Original applicant & other farmers, due to underground mining and blasting carried out by the Applicant, Hindustan Zinc Limited. This infact, is permanent loss to particular piece of land which turned and converted into big pits, holes measuring around 50 feet deep and 25-35 feet wide approximately. It is important to mention here that depriving farmers of cultivating their piece of agriculture land of which they are rightful owner is permanent loss to their only source of

earning. The photographs of the caving and pits developed on the agriculture land are already annexed with the original application filed by the Original 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 village because, due to the effect of underground mining, underground water of that village has become unfit for humans and Animals consumption. Therefore, a regular supply of Water through Tankers was felt necessitated. This amounts to infringement of fundamental rights of Original Applicant as well as fellow farmers, so as to say living with dignity & liberty as enshrined 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. from Friday, 01st November 2019, there was blasting being carried out by Project Proponent. Blasting sound could be heard up to more than a kilometre. This sound was heard at around 5:30-6:00 P.M causing vibration in the nearby places, hutments of the poor villagers. Astonishingly, after few minutes, a resident informed that the roof of a farmer hutment collapsed due to impact of vibration. However, it was conveyed by the farmers that this routine incident occurs in the surrounding areas, causing not only monetary losses but 24hr threat to their life always persists. The whole incident was captured by the Counsel is sent along with this reply 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 original applicant/ residents of that village, submissions made hereinafter may kindly be taken into considerations in order to fair and square justice to the villagers/ original applicants.
8. That, it is pertinent to mention that, No farmers 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 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 previous Counsel the matters could not rest final adjudication.
9. That, apart from caving, developed pits and holes in the agriculture land of poor farmers, the continuous poisonous and hazardous dust accumulates whole year on the top layer of irrigated fertile land. 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 top soil of any farmland is a precious national property which being eroded every year, shall ultimately lead to loss of fertility of crops and livelihood of the survivors. Moreover, there is a continuous fear in their minds that any time the farmland/ hutment may turn infertile/ collapse because of underground activities by the Project Proponent. Original Applicant being illiterate is not able to collect more evidence except the above submissions and video DVD being submitted with this reply.

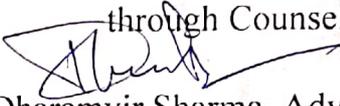
Prayer

It is therefore respectfully prayed that the interim application filed by Hindustan Zinc Limited Applicant, for Recalling Para 7 & 8 may kindly be dismissed and the order dated 18.08.2020 may be upheld as legal valid and constitutional in the eyes of law for which the Original Applicant shall ever pray.

Date- 30/10/2020

Non-Applicant

Place- Bhopal

through Counsel

(Dharamvir Sharma, Advocate)



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AFFIDAVIT

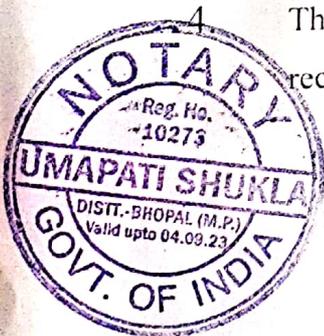
I, Om Puri Son of Shri Arjun Puri, age 47 years, R/o Anaria Choraha, Vill & Post Kothiya, Fuliakalan, Bhilwara (Raj) 311023, presently at Bhopal do hereby solemnly affirms as under:-

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.

That, this affidavit is executed in support of the reply and video recorded by the Counsel is of actual affected place.

(Handwritten signature)

DEPONENT



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.

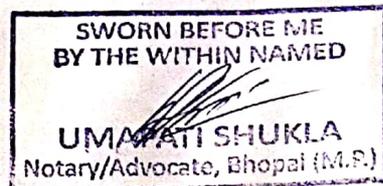
Signed and verified on this _____ day of October 2020 at Bhopal.

(Handwritten signature)

DEPONENT

IDENTIFIED BY ME

NAME.....
ADDRESS.....
SIGNATURE.....



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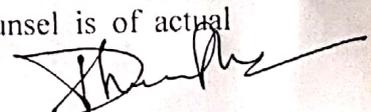
Hindustan Zinc Ltd. & Ors.

Respondent(s)

AFFIDAVIT

I, Dharamvir Sharma, Counsel for the Original Applicant Om Puri, in above OA no. 68 of 2020 do hereby solemnly affirms as under:-

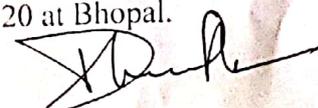
1. That, I the deponent being Counsel to the original Applicant is well conversant with the facts and submissions made herewith the reply.
2. That, all the contents in the reply, video sent through e-mail and DVD is true to the best of the deponent's personal knowledge.
3. That, the application is drafted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


DEPONENT

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 _____ day of October 2020 at Bhopal.


DEPONENT

IDENTIFIED BY ME

NAME..... Dharamvir Sharma
ADDRESS..... Puri, Bhopal
SIGNATURE..... 

SWORN BEFORE ME
BY THE WITHIN NAMED

UMAPATI SHUKLA
Notary/Advocate, Bhopal (M.P.)

