

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, NEW DELHI

IA No. 605 of 2024

National Fertilizers Limited

--Applicant

Versus

Punjab Pollution Control Board and Others

--Respondents

**In Re: Application under section 19(4)(i) of National Green Tribunal Act, 2010 read with section 151 of Code of Civil Procedure, 1908 on behalf of the appellant praying for stay on the operation of the order bearing no. 412 dated, 09.10.2024 issued by the respondent no.1.**

Reply by way of affidavit of Er. Ramandeep Sidhu, Environmental Engineer, Punjab Pollution Control Board, Regional Office, Bathinda, in compliance of order dated 05.12.2024.

I, the above-named deponent, do hereby, solemnly affirm and state as under:

**Respectfully Showeth:**

1. That briefly submitted, the Appellant has filed an appeal under Section 16(g) read with Section 18 of the National Green Tribunal Act, 2010 challenging order no. 412 dated 09.10.2024 passed by the Punjab Pollution Control Board whereby environmental compensation of Rs.11,88,00,000/- has been imposed on the appellant for violating the provisions of the Hazardous and Other Wastes



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(Management and Transboundary Movement) Rules, 2016 and degrading and damaging the environment.

2. Along with the Appeal the appellant has also filed the ad interim application under Section 19(4)(i) of the National Green Tribunal Act, 2010 read with Section 151 of the Code of Civil Procedure, 1908, seeking indulgence of this Hon'ble Tribunal in the grant of an ad interim ex parte injunction for the stay of operation of Order bearing No.412 dated, 09.10.2024 mentioning it is an arbitrary Order passed without any application of mind as it does not indicate under which provision of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, the order has been passed. It is further mentioned that the order does not indicate to what particular damage to air, water or land has been caused, what is the basis on which penalty is imposed and how the quantification of penalty imposed has been done.

In reply to the contents of this para it is submitted that no ground is made out to set aside the order dated 09.10.2024 passed by the respondent Punjab Pollution Control Board for imposition of Environmental Compensation upon the appellant. The necessary clarifications in reference to the contentions raised in this para by the appellant are given herein below:

- i) It is relevant to mention here that in exercise of the powers conferred under the Environment (Protection) Act, 1986, the Ministry of Environment, Forest and Climate Change, Government of India has notified the Hazardous Waste (Management and Transboundary Movement) Rules, 2016 vide notification no. GSR no. 395 (E) dated 04.04.2016. Under the said rules, the carbon residue in production of nitrogenous and complex fertilizers has been categorized as "Hazardous Waste" under Category 18.2 of Schedule - I.
- ii) The industry has failed to dispose of the hazardous category 18.2 carbon slurry and hence made itself liable to be proceeded against.
- iii) The industry has failed to reply for unjustified continued storage of carbon slurry and also in action / delay on their part in disposal thereof.



Subsequently the Board has issued orders for imposition of Environmental Compensation.

- iv) The Hon'ble National Green Tribunal has noticed in its order dated 08.01.2024 that despite unjustified continued storage of carbon slurry by NFL, Bathinda and also inaction/delay on their part in disposal thereof in accordance with mandatory statutory provisions, no action has been taken by the State Pollution Control Board for imposition of environmental compensation and also prosecution of the defaulting officers/officials.
  - v) The Hon'ble National Green Tribunal has further directed the Punjab Pollution Control Board vide order dated 28.08.2024 to take further action for imposition of Environmental Compensation on NFL, Bathinda for past violations and recovery thereof in accordance with Law.
  - vi) An opportunity of hearing was given on 05.09.2024 to the appellant by the Board for violation of the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, with issuance of notice u/s 5 of the Environment (Protection) Act, 1986 vide letter no. 3876 dated 22.08.2024.
3. That the appellant has filed the captioned IA before the Hon'ble National Green Tribunal and the Board has filed a detailed reply to the said IA. The contents thereof are not repeated for the sake of repetition. However, the contents thereof may kindly be read as part of reply to the contents of the application filed for ad interim injunction.
  4. That the contents of paragraph 4 of the application are a matter of record.
  5. That the contents of paragraph 5 of the application are a matter of record.
  6. That the contents of paragraph 6 of the application are a matter of record. However, it is submitted that the case no. 72 of 2019 mentioned in this para by the appellant relates to disposal of carbon slurry by M/s NFL, Bathinda to the firm M/s Carbo Chem Industries which was not having any authorization of



the Board. The NFL, Bhatinda was asked by the Punjab Pollution Control Board vide letter no. 6891 dt. 14.11.2018 not to sell the remaining carbon slurry of 3 ash ponds to any traders and shall dispose of the same with the prior approval /authorization of Punjab Pollution Control Board only to those recyclers who are having valid permission from the concerned SPCB to reprocess this hazardous waste. M/s. NFL, Bhatinda was also asked simultaneously to explain as to how they have given tender to the firm who has not any permission for reprocessing of this kind of hazardous waste from PPCB. It is in this background that the M/s Carbo Chem Industries was imposed Environmental Compensation by the Board. A copy of relevant order dated 03.07.2019 of the Hon'ble National Green Tribunal passed in Original Application No. 72 of 2019 is enclosed herewith as **Annexure-A** for kind perusal of the Hon'ble Tribunal. The liability of the appellant for unjustified storage of carbon slurry for a long period of time is separate case and cannot be connected with the matter (OA No.72 of 2019) mentioned in this para.

7. That in reference to the contents of paragraph 7 of the application, following reply may please be read.
  - a) The unit of the appellant is red category unit falling under the 17 categories of highly polluting industries. The carbon slurry which has been stored by the appellant for a long period of time has been declared as hazardous under category 18.2 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.
  - b) As per the record available with the Board the leftover carbon slurry amounting to approximately 39600 MT has been stored in appellant unit of National Fertilizers Limited, Bathinda without any justified reason.
  - c) It is irrelevant to contend that as per the test analysis the samples collected from the ponds indicated the carbon slurry lying in the ponds is non-hazardous as the hazardous contents are below the detectable limits because carbon slurry has been declared to be hazardous in nature as per



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Schedule-II of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

8. That the contents of paragraph 8 of the application are wrong hence denied that the action of respondent Board to impose Environmental Compensation on the appellant unit is arbitrary and uncalled for as it has been imposed for unspecified violation. However, it is relevant to mention here that the notices were issued to the appellant clearly stating and mentioning the violations committed by the appellant under the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The order bearing no.412 dated 9.10.2024 for imposition of Environmental Compensation amounting to Rs. 11,88,00,000/- was issued by the Board after due consideration of the matter relating to the violations of the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and in the background of the orders dated 08.01.2024 and 28.08.2024 passed by the Hon'ble National Green Tribunal after affording due opportunity of hearing to the appellant.
  
9. That the contents of paragraph 9 of the application are a matter of record. That the appellant was granted authorization by the Board from time to time for generation, collection, storage and disposal of hazardous waste with the condition that the appellant shall ensure to get the carbon slurry lifted to the authorized recycler at the earliest. It is relevant to mention here that the authorization was granted with certain conditions and one of the condition was that in case, the industry fails to comply with the above conditions of authorization as well as provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and / or any other environmental law applicable to the industry and Rules, Circulars and Directions issued by the Board from time to time, the Board shall be constrained to take action against the industry under the provisions of the Pollution Control Laws. As the appellant has failed to comply with the conditions of the authorization and the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, the Board has imposed Environmental



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Compensation in accordance with the scale of compensation determined by the Central Pollution Control Board.

10. That the contents of paragraph 10 of the application are denied being incorrect that the Respondent cannot on one hand grant extension of the authorisation and during the continuance of such authorisation impose compensation on the Appellant for alleged violation. The reply given in paragraph 9 above may kindly be read a reply to the contents of this para of the application. Further, it is submitted that the Board has imposed Environmental Compensation in accordance with the scale of compensation determined by the Central Pollution Control Board as mentioned herein below:

In the matter of Original Application No. 804/2017 (Earlier O.A. No. 36/2012) With M.A. No. 1302/2018 in Interlocutory Application No. 63 in W. P. (C) No. 657/199; Rajiv Narayan & another Versus Union of India & others With the Research Foundation for Science, Technology and Natural Resource Policy Versus Union of India and others, the Hon'ble National Green Tribunal, Principal Bench, New Delhi directed the Central Pollution Control Board, vide orders dated 12.04.2019, to determine the scale of compensation to be recovered for violation of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The Central Pollution Control Board has accordingly prepared the methodology for calculating financial penalty and compensation for various violations of the provisions of the HOWM Rules, 2016, in cases of the facilities requiring authorization under the said Rules, 2016.

11. That in reply to the contents of paragraph 11 of the application following submissions are made.

- a) The Board has drawn powers to impose Environmental Compensation upon the defaulters of pollution from various judicial pronouncements of the Hon'ble Supreme Court of India and the Hon'ble National Green Tribunal and this aspect has already been clarified in reply the preceding paragraphs



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and the facts in this regard have also been incorporated in the detailed order bearing no.412 dated 09.10.2024 passed by the Board for imposition of Environmental Compensation upon the appellant.

- b) The authorization granted by the Board from time to time to the appellant was conditional and one of the condition was that in case, the industry fails to comply with the above conditions of authorization as well as provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and / or any other environmental law applicable to the industry and Rules, Circulars and Directions issued by the Board from time to time, the Board shall be constrained to take action against the industry under the provisions of the Pollution Control Laws.
- c) The Board has imposed the Environmental Compensation upon the appellant taking into consideration the Principles of Precaution, Sustainable Development and Polluter Pay's which according to the methodology and scale involved by the Central Pollution Control Board in Original Application No.804 of 2017 and adopted by the Punjab Pollution Control Board has been calculated to be Rs.11,88,00,000/-. Hence, the appellant was directed the vide order no.412 dated 09.10.2024 to deposit the amount of Rs. 11,88,00,000/- towards Environmental Compensation with the office of the Board.

12. That in reply to the contents of paragraph 12 of the application, it is submitted that it is the bounden duty of the appellant to dispose of the carbon slurry in scientific manner which has been declared as hazardous waste of category 18.2 in the Schedule appended to the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The reply given to this aspect in the main reply of the industry may kindly be read as reply to the contents of this para of the application.

13. That in reply to the contents of paragraph 30 of the appeal, it is submitted that it is the responsibility and bounden duty of the appellant to dispose of the carbon slurry in a scientific manner. The appellant should have contacted



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Common Treatment, Storage and Disposal Facility (CTSDF) for hazardous waste is in existence at Village Nimbuan, Tehsil Dera Bassi, District SAS Nagar. If the appellant cannot find some company for the disposal of carbon slurry in a scientific manner in the domestic market in India, the appellant is at liberty to float an International Tender so that the carbon slurry is disposed of in a sound environmental manner.

14. That the contents of paragraph 14 are denied being incorrect. No prima facie case lies in the favour of the applicant industry.
15. That the contents of paragraph 15 are denied being incorrect. No balance of convenience lies in favour of the applicant industry.
16. That the contents of paragraph 16 are denied being incorrect. The orders issued by the Board bearing no. 412 dated 09.10.2024 are just fair and legal. Direction may kindly be issued to the industry to deposit the amount of Environmental Compensation with the Board immediately without any delay.

#### PRAYER

It is, therefore, prayed that the application filed for staying the order bearing no. 412 dated 09.10.2024 passed by the respondent Punjab Pollution Control Board for imposition of Environmental Compensation upon the industry M/s National Fertilizer Limited, Bathinda may kindly be dismissed being devoid of merits in view of the submissions made herein above.

Date: 03-01-2025

Place: Bathinda

Deponent



(Ramandeep Sidhu)  
Environmental Engineer,  
Punjab Pollution Control Board,  
Regional Office, Bathinda

**Verification:**

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I, the deponent above named, do hereby verify and state that the contents of the above affidavit are true and correct to the best of my knowledge and belief, as derived from the official record. No part of the above affidavit is false and nothing material has been concealed there from.

Date: 03-01-2025

Place: Bathinda.

**Deponent**



**(Ramandeep Sidhu)  
Environmental Engineer,  
Punjab Pollution Control Board,  
Regional Office, Bathinda**

Item No.06

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No.72/2019

Rakesh Singh

Applicant(s)

Versus

State of Punjab

Respondent(s)

Date of hearing: 03.07.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

For Respondent (s): Mr. Naginder Benipal, Advocate for PPCB

**ORDER**

1. The issue for consideration is the remedial action against storing of hazardous waste by M/s. Carbon Chemical Industries at Bhatinda, Punjab in violation of the Hazardous Waste Management Rules, 2016.
2. Vide order dated 26.02.2019, this Tribunal directed Punjab State Pollution Control Board to furnish a factual and action taken report. Accordingly, a report has been furnished vide the e-mail dated 05.04.2019 to the effect that huge quantity of carbon slurry was lying stored at the site and tentative quantity appears to be 3470 tones.
3. The relevant part of report is as follows:

  
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- “6. That the carbon slurry is covered at category no. 18.2 of HWM Rules, 2016. The firms i.e. M/s. Carbo Chem Industries had lifted this carbon slurry from M/s. NFL, Bhatinda through e-tender in the year 2017. M/s. NFL, Bhatinda was bound to sell this carbon slurry only to those industries which are actual users to reprocess such waste and are having valid permission from the concerned State Pollution Control Board and the same cannot be disposed off to the traders for trading purpose. So, the NFL, Bhatinda was asked vide letter no. 6891 dt. 14.11.2018 (Annexure-B) not to sell the remaining carbon slurry of 3 ash ponds to any traders and shall disposed off the same with the prior approval /authorization of Punjab Pollution Control Board only to those recyclers who are having valid permission from the concerned SPCB to reprocess this hazardous waste. M/s. NFL, Bhatinda was also asked simultaneously to explain as to how they have given tender to the firm who has not any permission for reprocessing of this kind of hazardous waste from PPCB.
9. That the said representation of the industry was considered by the Competent Authority of the Board and it was decided as under:
- a) The industry may be asked to make necessary arrangements for the storage of already stored carbon slurry in an environmentally sound manner as per HWM Rules, 2016..
  - b) The seal of the godown may be opened to take action on point no.1 above only after the industry disclose/intimate the approximate quantity of carbon slurry lying in the godown as already asked vide letter no. 4363 dt. 12.11.2018 so that the same may not be sold after opening the seal.
  - c) The industry may be directed not to sell/trading/transport the already stored carbon slurry without the prior



*authorization/permission of the Board under the Provision of HWM Rules, 2016.*

*d) The industry may be asked to submit the information/documents already asked vide letter no. 4363 dt. 12.11.2018 and no. 6891 dt. 14.11.2018.*

10. *That the seal of the industry was opened and the industry was asked vide letter no. 2230-31 dt. 17.01.2019 (Annexure-E) to comply with the following decisions as well as to apply for authorization under HWM Rules, 2016:*

*a) The industry will make necessary arrangements for the storage of already stored carbon slurry in an environmentally sound manner as per HWM Rules, 2016.*

*b) The industry shall not sell/trade /transport the already stored carbon slurry without the prior authorization/ permission of the Board under the provisions of HWM Rules, 2016..*

*c) The industry will submit the information /documents already asked vide letter no. 4363 dt. 12.112018 and no. 6891 dt. 14.11.2018.”*

4. Thus, the report clearly shows violation of Hazardous Waste Management Rules, 2016.

5. In view of the above, we constitute of a Joint Committee comprising the representative of the CPCB and the State PCB to assess the compensation to be recovered from the industry in question for violation of the Hazardous Waste Management Rules, 2016. The nodal agency for compliance and coordination will be the State Pollution Control Board. The Committee may give its report within one month by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in). Pending furnishing of such report, in view of facts emerging from the report

given after due notice to the concerned unit, the Punjab State PCB may require the industry to deposit interim compensation of Rs. 10 lakhs with the CPCB and also take steps to have the waste in question disposed of in accordance with the Hazardous Waste Management Rules, 2016, at the cost of the industry in question.

6. A copy of this order be sent to the CPCB and the State PCB by email.

List for further consideration on 13th September, 2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 03, 2019  
Original Application No.72/2019  
AK

