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BEFORE THE NATIONAL GREEN TRIBUNAL (P.B.)

AT

NEW DELHI

Original Application No. 405/2022

IN THE MATTER OF:

SHIV KUMAR ARORA

.....APPLICANT

Versus

State of Haryana &Ors.

.....RESPONDENTS

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Through

 Advocate
(Om Prakash) 

Date: 13.02.2023

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REPLY/RESPONSE BY WAY OF AFFIDAVIT FOR AND ON BEHALF OF RESPONDENT NO.2 IN COMPLIANCE TO THE JOINT COMMITTEE REPORT DATED 26.09.2022 IN TERMS OF ORDER DATED 08.07.2022.

IT IS MOST RESPECTFULLY SHOWETH:

Reply/Response affidavit for and on behalf of the Respondent Railway in compliance to the order dated 02.01.2023.

That the deponent Rahul Yadav, presently working as Divisional Commercial Manager, Freight Services, having office at Divisional Railway Manager's office State Entry Road, Connaught Palace New Delhi.



It is respectfully submitted that ²⁹ before submitting the parawise response the liberty of this Hon'ble Tribunal is hereby sought to give the preliminary submissions in view of the complexity of the matter.

PRELIMINARY SUBMISSIONS

The main grievance of the applicant, in this case, is regarding loading and unloading of mixture dust in railway wagons near Palwal Railway Station in violation of environmental norms and thereby causing of air pollution.

In this regard preliminary submissions are as under:

1. The Respondent no.2 herein is Delhi Division of Northern Railway Zone, is bound by the law and the Statute and is being governed by the provisions of the Indian Railway Act, 1989.
2. That the Delhi Division of Northern Railway is one of the key divisions of Indian Railway engaged in providing better transportation facilities to the passengers and transportation of the essential, commodities and goods of Government and other private entities fulfilling the common man's need through its vast Railway Network.
3. Respondent No.2 herein controls many stations comprising of platforms, which are used by the general public. Further adjacent to the said platforms there are designated goods siding which is used for purpose of loading and unloading of several kinds of goods/commodities used in the day to day need of general public, which is booked by the different companies and thereafter, transported across the Indian Railways to their designated destinations.



4. That the main purpose of the Goods siding is to provide the specific/separate dedicated platform/siding outside the area of public platforms for loading and unloading purpose of such goods and commodities, which are monitored and controlled by respective divisions closely. In the present case it is the Delhi Division which is managing the Palwal Goods siding.
5. It is pertinent to submit here that the subject goods siding is notified under section 89 (1) of the Indian Railway Act 1989, situated at, Palwal, Haryana, which falls under the ambit of Delhi division of Indian Railways and has been used for transportation of several kinds of goods and commodities for daily use of the common public. The applicant has assigned dedicated railway tracks for transportation of such goods which are being transported on the bookings of various customers/companies who are solely responsible for handling of such goods from the trains and the transportation of the booked commodities is the only job that the Railways is carrying out in covered wagons to the goods siding from where the goods/commodities were booked.
6. It is worthy to note here that the goods train once it reaches at siding platforms the customers who have booked are informed in advance to take their goods directly into the covered trucks/carriages for the last mile service by engaging their own routine manpower for unloading and loading towards further transportation and distribution. It is further submitted that the Respondent Railways has no any role except the transportation through its wagons and as far as further handling of goods and commodities is concerned the Respondent Railways issues various guidelines, do's



and don'ts in the handling of such goods and commodities in its premises and the authorities concerned keep a vigil on the same and any violation is dealt with in accordance to the extant rules, including the imposition of penalty as per Rules of the Railways and the direction passed by this Hon'ble Tribunal from time to time.

7. It is pertinent to submit here that the goods siding at Palwal, the subject-matter of case is in operation for long way back since 1900 and the said siding is generally used for unloading of only few rakes of clinker are entertained at the said Palwal siding as and when booked by the customer in terms of their convenience w.r.t. to further mode of transportation.

Reply/Response by Respondent Railways in compliance to Joint committee report dated 26.09.2022 prepared in terms of order dated 08.07.2022.

1. That on 08.07.2022, this Hon'ble Tribunal was pleased to constitute the Joint Committee. The operative para of the said order is as under:

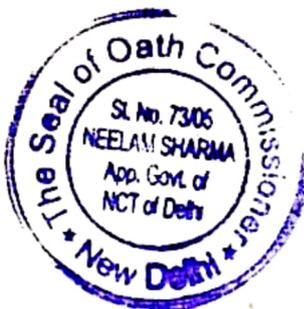
"In view of the averments made in the application, it would be appropriate to have a factual and action taken report in the matter. Accordingly, we constitute a Joint Committee comprising of General Manager, Northern Railway, Divisional Railway Manager, Delhi, State PCB and Deputy Commissioner, Palwal, The State PCB will be the Nodal agency for coordination and compliance. The Joint Committee may meet within four weeks, undertake site visits, look into the grievances of the applicant, verify the factual position



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and take requisite action by following due process of law. Factual and action taken report may be furnished within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF."

2. That In compliance of the said orders, the site was inspected by the joint committee on 22/09/2022 and the report by the member of joint committee comprising of General Manager, Northern Railway, Divisional Railway Manager, Delhi, State PCB and Deputy Commissioner, Palwal as per directions of Hon'ble NGT order dated 08.07.2022 is as follows:

- a. During inspection following observations were made:
- i. The complainant was contacted telephonically to join the inspection along with the joint committee but the complainant refused to join the team as he cannot leave the office in the working hours of his workplace.
 - ii. The habitation/residential colony is situated approx 800 meters away from the site of loading and unloading of material.
 - iii. Palwal Goods Siding is located in outskirts of the city, which consists of two railway lines, which are being used for handling of commodities. As per information supplied by the officers of the Railway Department, an average of 14 rakes are handled on monthly basis. The main Commodities which are being handled at Palwal Gods Shed/Siding are urea/ fertilizer, gunny



bags and clinker. So, the main source of dust emissions is unloading/loading of clinkers only.

- iv. At the time of inspection, the clinkers lying on the sidings were covered with the black canvas, no source of emission is being generated from the lying clinkers on sidings.
 - v. 1 no. tractor with trolley was found for water sprinkling on regular basis on entry- exit points and on complete road near the sidings where the dust emission can be generated due to movement of vehicles.
 - vi. At the time of inspection, no unloading/loading was observed, hence, dust emissions were also not found.
- b. That the Recommendation and its compliance are as under:

- i. Railways department should ensure the regular water sprinkling on the complete area of sidings and roads to control the dust emissions generated from the movement of JCB and vehicles.

Reply: In this regard, it is informed that relevant instructions were communicated to the parties and same is implemented by the parties.

- ii. Railway department should install a Anti-Smog Gun permanently to control the dust emissions generated from the process of loading and unloading.



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Reply: In this regard, it is informed that relevant instructions were communicated to the parties and same is implemented by the parties.

- iii. The height of side walls near the sidings should be increased to an extent 10-12 meter or the green curtains of at least 10-12 meter height from the ground should be placed near the sidings, so that the dust emissions cannot travel outside the Railway Premise.

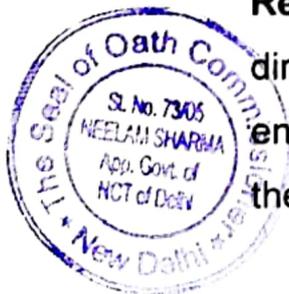
Reply: In this regard it is submitted the process of the tender has been initiated and the budget for the same has been allocated by the concerned engineering department.

- iv. The left over debris on the roads and near the sidings should be cleared immediately after the loading and unloading work is completed.

Reply: In this regard it is informed that relevant instructions were communicated to the parties and same is implemented by the parties.

- v. The railway department should also plant trees of tall height near the sidings and near the road to control the dust emissions.

Reply: In this regard it is submitted that the direction has been issued to the concerned engineering department for tree plantation near the siding area.



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vi. Before any unloading/loading activity, the dust spilled all over the platform should be cleaned with mechanical mobile sweeping machines and water sprinkling be done before entry of any vehicle.

Reply: In this regard it is informed that relevant instructions were communicated to the parties and same is implemented by the parties.

vii. Areas under vehicle movements should be kept clean by mechanical mobile sweeping machines and water sprinkling.

Reply: In this regard it is informed that relevant instructions were communicated to the parties and same is implemented by the parties.

viii. Material transportation should be done under covered trucks/tractors with proper enclosure to strictly avoid any spillage.

Reply: In this regard it is informed that relevant instructions were communicated to the parties and same is implemented by the parties.

ix. During the movement of loaded trucks/tractors on roads, especially after loading, the dusts deposited on the wheels tends to airborne. To reduce the dust emission, adequate wheel cleaning should be taken up at the unloading/loading site before it enters the road.

Reply: In this regard it is informed that relevant instructions were communicated to the parties and same is implemented by the parties.



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- x. Labours should be provided safety mask, shoes and gloves for material handling while unloading/loading of materials.

Reply: In this regard it is informed that relevant instructions were communicated to the parties and same is implemented by the parties.

- xi. Railway Authority, Palwal should submit the fugitive emission monitoring report of Good Siding area to Haryana SPCB, carried out by the Govt. approved agency/third party on quarterly basis.

Reply: In this regard it is informed that relevant instructions were communicated to the concerned EnHM cell of the Railways for providing the reports and conducting the inspections.

3. It is respectfully submitted for kind consideration of this Hon'ble Tribunal that the overall environmental impact of transportation of such commodities by railways is much less as compared to other modes of transportation as the cement is transported in closed wagons and such restrictions also leads to loss of revenue for the government by means of freight and other charges.

4. It is respectfully submitted that Railway is committed towards strict adherence of environment friendly measures in its continuous endeavor in becoming greener Railways. The photographs is also annexed herewith as Annexure R-1 Colly.



5. In view of the above stated facts and circumstances, the applicant may be allowed to resume the operation of the cement handling at ANDI goods siding in the interest of the public at large with a pragmatic view on the response towards compliance as well as the submission made herein above.

Rahul Yadav

DEPONENT
मण्डल वकिल प्रवक्ता (फस)
मारेन्द्रा कार्यालय, नई दिल्ली
Div. Comm. Manager (FS)
DRM Office, New Delhi

13 FEB 2023

Verified at New Delhi on this th day of February 2023 that the contents of day. Verification of the above affidavit are true and correct to my knowledge and noting false has been stated therein and no material has been concealed there from.

Om Prakash E.3372/99

I identified the deponent who has signed in my presence

Rahul Yadav

DEPONENT

मण्डल वकिल प्रवक्ता (फस)
मारेन्द्रा कार्यालय, नई दिल्ली
Div. Comm. Manager (FS)
DRM Office, New Delhi

Through

Solemnly sworn before me and read over & explained to the deponent Admitted to be correct

Oath Commissioner, New Delhi

Om Prakash
Advocate
(Om Prakash)



13 FEB 2023

Date: 13.02.2023

New Delhi

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