

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

**O.A. NO. 537 OF 2022**

**IN THE MATTER OF:**

Mukesh Kumar Chauhan

...APPLICANT

**VERSUS**

State of UP & Ors.

...RESPONDENTS

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**Place: New Delhi**

**Date: /02/2023**

**RESPONDENT - 5 THROUGH**



**SHLOK CHANDRA**

ADVOCATE FOR THE PETITIONERS

A-22 DEFENCE COLONY,

NEW DELHI-110024

E-MAIL: [shlokchandra@chandraLawchambers.com](mailto:shlokchandra@chandraLawchambers.com)

Phone: +91 9999670588

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
O.A. NO. 537 OF 2022

**IN THE MATTER OF:**

Mukesh Kumar Chauhan

...APPLICANT

VERSUS

State of UP

...RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT NO. 5 IN O.A. NO. 537 OF 2022.**

1. This reply is being filed by the Project Proponent i.e. JK Cement who is Respondent No. 5 in the present proceedings. It is respectfully submitted that the facts not specifically admitted should be considered to be denied and no averment should be considered to be admitted on the ground of non traverse. The petitioner be put to strict proof of all averments made. On 12.01.2023 the Respondent No. 5 was directed to file it's reply within one month and in compliance of the said directions the present reply is being filed. Copy of order dated 12.01.2023 is attached herewith marked as **Annexure R-1**.

**Facts in Brief:**

2. That the facts in brief leading to the present application is that the present Petitioner sent a letter petition, which was treated and registered as Original Application, complaining about air pollution caused by transport of clinker interalia by the Project Proponent.

3. After taking suo-moto cognizance of the present letter petition, the Tribunal found it appropriate to seek response from the 1) State of Uttar Pradesh, 2) State PCB, 3) District Authority, Aligarh; 4) Railways 5) M/s J.K Cement and 6) M/s Vision Next Road Logistics Pvt. Ltd.
4. It may however, be noted that subsequently, the Petitioner has withdrawn his compliant. Notwithstanding the same, the Petitioner is responding to the contents of the Complaint on merits.

**Preliminary Submissions:**

5. The Main issue pertains to the air pollution caused at the railway siding at the time of loading/unloading of clinker at the railway siding and during transportation till 400-500 metres from the spot of loading/unloading site. It is submitted that the Indian Railways is the owner of the railway siding and concretization of the same would fall within the mandate of the Indian Railways.
6. Adequate measures have been taken by the project proponent i.e. M/s JK Cement and they have implemented all the best available measures to control the dust emitted during the process of loading and unloading. All the steps taken have been elaborated in detail in the present reply.
7. Uttar Pradesh Pollution Control Board i.e. UPPCB through the joint committee formed by the Ld. Tribunal has submitted its report dated 10.11.2022, which indicates that the adequate steps are being taken by the project proponents to

mitigate the effects of air pollutions caused by the loading/unloading of the clinker.

8. Judicial Precedents attached with this reply indicate that from time to time, this court has issued directions to the Indian Railways for taking steps in similar situations but such directions are still to be fully complied with by Indian Railway.
9. The Project Proponent is also in talks with Indian Railways in order to have a direct and dedicated transport line/corridor between its unit at Aligarh, so that in the foreseeable future the transportation by the trucks could be reduced.
10. Along with this reply, the answering respondent is also attaching relevant photographs to indicate the efforts made to mitigate the effects of transport by clinker in a proactive manner.

**Main Reply:**

**Role of Indian Railways:**

11. It is submitted that the Indian Railways is the owner of the railway siding and concretization of the same would fall within the mandate of the Indian Railways. For issues relating to the air pollution caused at the railway siding at the time of loading/unloading of clinker and during transportation till 400-500 metres of the spot of loading/unloading site, the Project Proponent has already taken all the adequate measures. It may be appreciated that the Railway siding is owned by

the Indian Railways and project proponents cannot make structural improvements at the site. The same is not feasible and cannot be expected from the Project Proponent. In this regard, judicial precedents must be acknowledged by the Hon'ble Tribunal.

12. It may be noted from UPPCB's letter dated 14.12.2022 in para 4 that, "*During visit, the platform near line no. 14 was found unpaved, which is also the cause of fugitive emission during transportation.*" Thereafter, UPPCB has recommended that the platform should be paved to avoid fugitive emission while movement of trucks.

13. Judicial Precedents attached with this reply indicate that from time to time, this Hon'ble court has issued directions to the Indian Railways in *O.A. No. 989/2018* titled as "*Shivansh Pandey V State of Uttar Pradesh*" and in *O.A. No. 20/2021 (CZ)* titled as "*Krishna Murari & Ors. V State of Rajasthan & Ors.*" for taking steps in similar situations but such directions are still to be fully complied with by Indian Railways. The true and correct copy of these judicial precedents are annexed herewith marked as **Annexure R-2 (Colly)**

14. In **Shivansh Pandey v. State of Uttar Pradesh**, the Hon'ble Tribunal was dealing with the air pollution caused in the course of loading and unloading of cement, fertilizers and grains by trucks at and around Railway Godown, Faizabad, Uttar Pradesh. In the said case, the court noted as follows:

“8. The report of the Expert Committee filed by the Railway Board with its letter dated 26.09.2019 refers to the Public Accounts Committee of 16th Lok Sabha which noted that consent for operations from the SPCB was being obtained in 50% of the sidings, tests checked and specific guidelines were issued to the zonal railways for obtaining such consent. In view of default in the present case and possibility of similar defaults elsewhere, let the Railway Board ensure that its directions are compiled and mandate of law is followed. Appropriate action be taken against the heads of the zonal offices concerned for defaults.

9. Apart from not following the requirement of taking requisite consents, the Railway Administration at Faizabad is not following the measures to be adopted at loading/unloading points. It can be inferred that at other locations of railway sidings and good sheds, there may be similar situation. This needs to be checked by an appropriate mechanism to be evolved by the Railway Board. The Additional DRM (Operations) Lucknow present before this Tribunal has made a statement that necessary steps for enforcing the law and necessary Safeguards will now be taken within one month. The officer may take the steps and file his report before this Tribunal and also before the Railway Board. The Railway Board may compile appropriate information with regard to other such locations and furnish a comprehensive report. The Railway Board may depute a suitable senior officer with the compliance report on the next date.”

In **Krishna Murari & Ors. V. State of Rajasthan & Ors**, the issue once again was that of air pollution at the Railway siding on account of loading and unloading of clinker. The Hon’ble Tribunal noted as follows:

*"26. It cannot be disputed that no development is possible without some adverse effect on the ecology and environment, and the projects of public utility cannot be abandoned and it is necessary to adjust the interest of the people as well as the necessity to maintain the environment. A balance has to be struck between the two interests. Where the commercial venture or enterprise would bring in results which are far more useful for the people, difficulty of a small number of people has to be bypassed. The comparative hardships have to be balanced and the convenience and benefit to a larger Section of the people has to get primacy over comparatively lesser hardship". This indicates that while applying the concept of "sustainable development" one has to keep in mind the "principle of proportionality" based on the concept of balance. It is an exercise in which we have to balance the priorities of development on one hand and environmental protection on the other hand.*

*27. The economic growth in the country has brought along rapid increase in the Urbanization & Industrialization. Subsequently, there has been considerable increase in demand of material/commodities to cater the needs of growing economy which is channelized through different means of transportation, however the railways plays a vital role in the same. Freight services constitute the most important segment of activity of railway business. Indian Railways have carried 970 million tonnes of revenue earning freight traffic during fiscal 2011-12. There is increase of 48 million tonnes i.e. 5.24% over the freight traffic of 922 million tonnes carried during the corresponding period last year. Indian Railways carries bulk freight viz. ores and minerals, iron and steel, cement, mineral oils, food grains and fertilizers, containerized cargo etc.*

*28. In Indian Railway freight traffic is operated through Sidings. A railway siding is a place/area which are used to receive, temporarily store, load/unload material in the rakes. Sidings may be used for marshalling, stabling, storing,*

loading and unloading vehicles. The materials/commodities are loaded and unloaded here with the linked network of rail track and roads. The loading and unloading activities of pollution intensive commodities creates immense nuisance in and around the site. Sidings have attracted attention in India particularly due to pollution generated during loading and unloading activities and their locations mainly in urban areas. The pollution control measures have not been provided in substantial manner at sidings thereby adversely affecting the environment. Over the years no data are available on management of pollution from sidings although there are environmental impacts on water, air, human health, soil degradation and vegetation etc.

29. Central Pollution Control Board (CPCB) has been frequently receiving Public Complaints from the nearby residents of the Railway Sidings regarding problems of Air Pollution mainly due to the loading/unloading activities as well as transportation activities from Railway Sidings. CPCB has initiated a study on Inventorization of all the major sidings in the country and on the basis of the data collected through field surveys as well as Questionnaires the Guidelines on Environmentally Sound Management of Railway Sidings have been developed. CPCB hired the services of Rail India Technical and Economic Service (RITES), Gurgaon for carrying out this study.

31. In light of the contention raised by the learned counsel of the parties, we are of the view that commercial activities which are within the concept of sustainable development cannot be restricted and a balance should be made between the sustainable development and maintenance of environmental laws. The public health and maintenance of air quality is the constitutional mandate while sustainable development is also required for economic development of the nation. Accordingly, we are of the view that State Pollution Control Board should periodically monitor the air quality index and during the period when air

*quality is not within the control only in those period the necessary directions be issued restricting the loading and unloading the racks of clinkers. During the period when the air quality is within the parameter laid down by the State Pollution Control Board, the functioning of the loading and unloading should not be restricted. A scientific study is required to be taken about the contribution of ratio of load of pollution caused by loading and unloading, the clinker at the place. If the pollution load is for other reasons, the Railway Department should not be solely accounted for that reason. Decisions are required to be taken after considering all relevant factors causing increase of pollution. In view of the above facts, I.A. No. 46 of 2021 moved by Respondent No. 7 is allowed to the extent that during the period when the Ambient Air Quality is as per prescribed standard and increase is not solely for the reasons of siding work, the loading and unloading of the clinkers should not be restricted. The State Pollution Control Board should periodically monitor the Ambient Air Quality within the area and necessary remedial action should be taken immediately and the regulation issued by the name "inventorisation of railway siding and guidelines for their environment management" must be strictly observed with."*

**Measures taken by JK Cement and current status:**

15. The Adequate measures have been taken by the project proponent i.e. M/s J.K. Cement and implemented all the best available measures to mitigate air pollution at the time of the loading and unloading of clinker at the railway siding and during the process of transportation of clinker by truck. Clinker unloading and its transportation to our Plant is performed by M/s. Vision Next Road Lines (VNRL). However, our clinker handling agency has deployed water tanker to

maintain wetness of the drive area so as to control the dust generation, along with that our clinker handling agency has taken all the precautions and implemented the best measures to control the fugitive dust emissions. The photographs of the nearby area and even of 500 mtr radius of handling area clearly indicate the effectiveness of the control measures implemented:-

- Water sprinkling at Railway siding.
- Mist/ anti-smoke guns are provided and operated as required to suppress dust particles.
- Greenbelt (800 trees) has been developed all along the railway siding.
- Green cloth curtain has been provided on both sides of sidings to trap the flying particles generated during the process.
- Photographs showing the same attached marked as **Annexure R-3 (Colly)** [Due to the large size of Photographs the same would be demonstrated during the physical hearings.]

16. On 26.12.2022 the Project Proponent i.e. JK Cement, had replied to letter issued by UPPCB on 14.12.2022. Para wise reply provided by JK Cement to UPPCB is attached herewith marked as **Annexure R-4**.

17. In reply to UPPCB, it was submitted by JK Cement that the steps taken includes:

- i. Enclosure are being provided for unloading of raw material.

- ii. Raw Materials are being unloaded in the covered areas to avoid the generation of fugitive dust.
- iii. Bag house/Bag filters are installed inside the plant premises.
- iv. Transfer point locations are fully enclosed.
- v. Floors are regularly swept.
- vi. Air borne dust is being controlled by water sprinkling which is done regularly.
- vii. The Raw materials/end products are stored in closed premises.
- viii. Travel Paths of the pay loaders are paved and swept frequently by the vacuum sweeping M/C.

18. The latest report submitted by UP PCB states as follows:

1. *“At the time of inspection, the railway station was situated on the side line no. 0-14 of Harduaganj railway siding. Water sprinkling work was found to be done through 02 tankers in the loading/ unloading area.*
2. *At the time of inspection, two nos. of portable anti smoggun were found located at the loading/ unloading site and water sprinkling was found to be done by both of the anti smoggun. The representative present at the time of inspection was informed by Mr. Vision Next Road Line that Anti Smogon Machine has been purchased by the firm. Photocopy of tax invoice is attached.*

3. *At the time of inspection M/s Vision Next Road Line No-132, S.S. Off GT Road, Industrial Area, Ghaziabad by Harduaganj Railway Station and Monitoring of ambient air quality of Village- Satha was done in both loading and unloading conditions.*
4. *At the time of inspection, it is natural for dust/ dust to fly due to the railway siding of Harduaganj railway station and the road being unpaved for vehicular traffic. The representative present at the time of inspection was informed by M/s Vision Next Road Line that work has to be done by the Railways to make the said road and railway siding .*
5. *Generated by the movement of vehicles and loading / unloading on Harduaganj railway siding at the time of inspection to control the fugitive dust, the eastern and western sides of the railway station were covered from the boundary with a long temporary green net about 20 feet high 600 meters on both sides (Photograph attached).*
6. *Due to non- availability of goods train/ rack at the time of inspection, the work of unloading could not be done. But the loading work was going on. At the time of inspection, suitable PPE was not found to be used by the worker during loading.*
7. *At the time of inspection, pump set was found installed on the borewell located on the railway siding. From the said borewell no record has*

*been presented regarding whether the permission for water exploitation has been obtained from the District Level Ground Water Authority, Aligarh or not.*

8. *It was informed by M/ s Vision Next Road Line, present at the time of inspection, that the said borewell located at Harduaganj railway siding belongs to the Railways. Railway must get the permission for water harvesting. The report is sent with respect for your perusal and further necessary action.”*

The True and translated copy of the UPPCB report is annexed herewith marked as **Annexure R- 5 (Colly)**

19. The Project Proponent is also in talks with Indian Railway in order to have a direct and dedicated transport line/corridor between its units, so that in the foreseeable future the transportation by the trucks could be reduced. A suitable direction may also be given to Indian Railways to fast track that proposal.

20. It is also respectfully submitted that a balance has to be met between economic development and environmental pollution. In the instant case, adequate measures have been taken by Project Proponent to mitigate air pollution in a proactive manner. The same is borne out from UPPCB's report as well as colour photographs attached.

## PRAYER

In view of the facts and circumstances of the present case the Respondent No. 5 respectfully prays that this Hon'ble Tribunal may be pleased to:

- (a) Dispose of the present O.A. No. 537/2022 with appropriate directions to Indian Railways to adhere to its own guidelines and for pavement of railway sidings Harduaganj;
- (b) Pass such other orders as this Hon'ble Tribunal may deem fit and appropriate.

**Place: New Delhi**

**Date: /02/2023**

**RESPONDENT - 5 THROUGH**



**SHLOK CHANDRA**

ADVOCATE FOR THE PETITIONERS

A-22 DEFENCE COLONY,

NEW DELHI-110024

E-MAIL: [shlokchandra@chandralawchambers.com](mailto:shlokchandra@chandralawchambers.com)

Phone: +91 9999670588

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

[Under Sec. 16(g) of the NGT Act, 2010]

**O.A. NO. 537 OF 2022**

**IN THE MATTER OF:**

Mukesh Kumar Chauhan

...APPLICANT

**VERSUS**

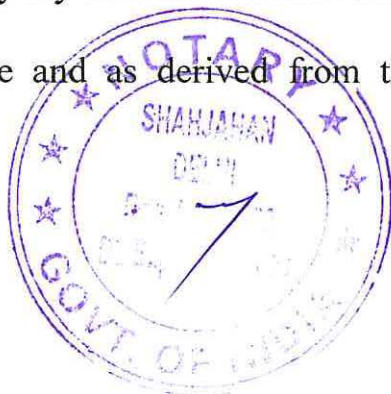
State of UP

...RESPONDENTS

**AFFIDAVIT**

I, R. S. Paliwal S/o Late Shree Rajendra Prasad, aged about 48 years, presently working as General Manager Legal, in M/s J.K. Cement Ltd at Padam Tower, 19 DDA, Community centre Okhla Phase-1, New Delhi – 110020, do hereby solemnly affirm and state on oath as follows:

1. That the deponent is the authorized signatory of the Respondent Company No.5 and is well conversant with the facts, circumstances and proceedings of the case and as such competent and duly authorized to swear and affirm this affidavit.
2. That I have gone through the contents of the accompanying petition/reply which has been drafted by my counsel and state that the same are true and correct to the best of my knowledge and as derived from the records maintained by the Respondent



Company in its ordinary course of the business. The legal averments are based on the legal advice received and verily believed to be true.

- 3. That the annexures annexed to the present petition/reply are true copies of their respective originals.

For J.K. CEMENT LTD.

*[Signature]*  
 Authorised Signatory  
 Deponent

*[Signature]*  
 I have identified the deponent who has signed/put in my presence.

VERIFICATION 08 FEB 2023

I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct and best to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

08 FEB 2023

Verified at New Delhi on this 08 day of February 2023.



VERIFIED THAT THE DEPONENT  
 S/o W/o ...  
 Identified ...  
 has solemnly ...  
 on ...  
 that the contents of the affidavit ...  
 have been ...  
 true and correct to this & knowledge  
*[Signature]*  
 35

For J.K. CEMENT LTD.

*[Signature]*  
 Authorised Signatory  
 Deponent

Item No.07

Annexure R-1  
(Court No. 2)

16

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**(Through Physical Hearing with Hybrid VC Option)  
Original Application No. 537/2022

Mukesh Kumar Chouhan

...Applicant

Versus

State of U.P.

...Respondent

Date of hearing: 12.01.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None.

Respondents: Mr. Pradeep Misra, Advocate for UPPCB (through VC).  
Mr. Shlok Chandra, Advocate for the Project Proponent-  
M/s JK Cement.  
Mr. Nishant Datta, Advocate for the Project Proponent-  
M/s Vision Next Road Logistics Pvt. Ltd.**Application is registered based on a letter petition received by Email.****ORDER**

1. The grievance in the present application is regarding transportation of clinker for manufacture of cement through Harduaganj Railway station near village Satha District Aligarh in violation of environmental norms.
2. Vide order dated 05.09.2022, this Tribunal constituted a Joint Committee with direction to submit its report within one month. In compliance thereof, reports of the Joint Committee have been filed vide emails dated 01.12.2022, 21.12.2022 and 11.01.2023.
3. Applicant has sent affidavit by post stating that his grievance has been resolved and he does not want to continue further with the matter.
4. In view of the facts and circumstances of the case, we are of the considered view that the matter needs to be looked into for compliance with

environmental norms and for abatement of the environmental pollution. This Tribunal is empowered to take *suo moto* cognizance of such cases involving questions relating to environment arising out of the implementation of enactments specified in Schedule I of the National Green Tribunal Act, 2010 as held by Hon'ble Supreme Court in **Municipal Corporation of Greater Mumbai V/s. Ankita Sinha and others 2021 SSC Online SC 897.**

5. In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Uttar Pradesh through Chief Secretary, Government of Uttar Pradesh, (2) State PCB, (3) the District Magistrate, Aligarh, (4) the Railways and (5) the Project Proponent- M/s J.P Cement, (5) (5) the Project Proponent- M/s Vision Next Road Logistics Pvt. Ltd., who stand impleaded as respondents No. 1 to 7. The Registry is directed to prepare memo of parties to the application. Respondent no. 3,5,6 and 7 are already appearing before this Tribunal through counsel. Notices be issued to respondents no. 1, 2, 4.
6. Reply/response on behalf of the respondents be filed within one month by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.
7. List for further consideration on 20.02.2023.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 12 2023  
AG

TRUE COPY

Annexure 18 R-2  
(COLLY)

Item No. 02

Court No. 1

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

Original Application No. 989/2018

(With report dated 05.08.2019)

Shivansh Pandey

Applicant(s)

Versus

State of Uttar Pradesh

Respondent(s)

Date of hearing: 11.10.2019

**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): None

For Respondent(s): Mr. Om Prakash, Advocate for Railways with Mr. Amit Srivastav, ADRM (Operation) and Mr. Jagtosh, Sr. DCM for railways  
Mr. Daleep Dhyani, Advocate for UPPCB

**ORDER**

1. The question for consideration is the remedial action against pollution at and around Railway Godown, Faizabad, Uttar Pradesh in the course of loading and unloading of cement, fertilizers and grains by trucks, polluting the air quality and causing respiratory problems. Vide order dated 03.01.2019, the Uttar Pradesh Pollution Control Board (UPPCB) was required to furnish a factual and action taken report in the matter.
2. Vide order dated 29.08.2019, this Tribunal considered the report of the SPCB. The SPCB had issued directions to the Railways to construct a covered shed and to undertake sprinkling of water to

contain the air pollution, apart from adopting suitable safety norms in the course of loading/unloading. The Tribunal also noted that the Railway Board had failed to respond to the orders of this Tribunal. The General Manager, Northern Railways was required to furnish a compliance report.

3. A copy of response received from the Railway Board on 26.09.2019 has been placed for consideration which in turn refers to circular of the Railway Board dated 16.04.2018 issued to all the Zonal Railways for action to be taken with regard to handling of pollution intensive commodities at Sidings and Goods Sheds in accordance with the provisions of environmental law. The said letter refers to report of an Expert Committee which was constituted by the Railway Board which recommended as follows:

*"1. Keeping in view the statutory / legislative provisions*

- a) Wherever new siding/goods shed private freight Terminal/ any loading / unloading 'point is being developed / constructed; 'Consent to Establish' should be taken from State Pollution Control Board by the owner or the railway as the case may be in accordance with the provisions of State Pollution Control Board, keeping in view the notified areas / air pollution control areas and categorization of Industrial Sectors.*
- b) Wherever the sidings are existing, 'Consent to Operate'-Consent for Operation' should be obtained from State Pollution Control Board: by either owner or by the railway as the case may be in accordance with the provisions of State Pollution Control Board, keeping in view the notified areas / air pollution control areas and categorisation of Industrial Sectors.*
- c) Zonal Railways must be aware of Air Pollution Control Areas notified by respective SPCBs and ensure, compliance to applicable environmental legislations. Necessary clause may be incorporated in agreements of sidings. For railway owned sidings and goods sheds, the responsibility lies directly with the Railways.*
- d) In addition to air pollution, water pollution and noise pollution should also be taken care of depending upon the*

*extent of pollution and environmental impact for specific commodities and locations.*

2. *Some protective measures to be taken at loading/unloading points by the owner or railways as the case may be, are :*
  - a) *Paved approach roads with adequate traffic carrying capacity should be provided at each loading /unloading point. The existing, roads which are in bad condition should be repaired and maintained.*
  - b) *To. control dust pollution, water sprinkling system through mechanized system or tankers should be provided as per requirement. Proper wastewater/drainage system shall be provided at loading/unloading point as per requirement.*
  - c) *Appropriate green belt cover to be provided at the loading/unloading point to mitigate pollution.*
  - d) *Where necessary, the heavy loading and unloading traffic handling points to be provided with dust screen walls along periphery of the premises with adequate height."*
4. The Committee also noted that consents are required to be taken under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.
5. In spite of the above stand of the Railway Board, the Divisional Commercial Manager, Northern Railway DRM Office, Lucknow is not shown to have taken requisite consents.
6. As per the report dated 05.08.2019 furnished by the SPCB, the railway goods siding, Ayodhya was creating air pollution and for damage to the air quality, compensation of Rs. 91.2 lacs was assessed as per applicable norms.
7. In view of above, it is established that there is violation of air quality norms by the railway goods siding, Ayodhya.
8. The report of the Expert Committee filed by the Railway Board with its letter dated 26.09.2019 refers to the Public Accounts Committee of 16<sup>th</sup> Lok Sabha which noted that consent for operations from the

SPCB was being obtained in 50% of the sidings, tests checked and specific guidelines were issued to the zonal railways for obtaining such consent. In view of default in the present case and possibility of similar defaults elsewhere, let the Railway Board ensure that its directions are complied and mandate of law is followed. Appropriate action be taken against the heads of the zonal offices concerned for defaults.

9. Apart from not following the requirement of taking requisite consents, the Railway Administration at Faizabad is not following the measures to be adopted at loading/unloading points. It can be inferred that at other locations of railway sidings and good sheds, there may be similar situation. This needs to be checked by an appropriate mechanism to be evolved by the Railway Board. The Additional DRM (Operations) Lucknow present before this Tribunal has made a statement that necessary steps for enforcing the law and necessary safeguards will now be taken within one month. The officer may take the steps and file his report before this Tribunal and also before the Railway Board. The Railway Board may compile appropriate information with regard to other such locations and furnish a comprehensive report. The Railway Board may depute a suitable senior officer with the compliance report on the next date.
10. In the meanwhile, the SPCB may take steps for recovery of the assessed compensation and for enforcing the law, including prosecution.
11. A copy of this order be forwarded to the Chairman, Railway Board by email for compliance.

List for further consideration on 20.12.2019.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

October 11, 2019  
Original Application No. 989/2018  
DV



MANU/GT/0220/2021

23

**BEFORE THE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONE BENCH, BHOPAL**

Original Application No. 20/2021(CZ) (I.A. Nos. 46 and 47/2021)

Decided On: 21.09.2021

Appellants: **Krishna Murari and Ors.**  
**Vs.**Respondent: **State of Rajasthan and Ors.****Hon'ble Judges/Coram:***Sheo Kumar Singh, J. (Member (J)) and Dr. Arun Kumar Verma, Member (E)***Counsels:***For Respondents/Defendant: Rohit Sharma, Mahendra Singh Kachawa, Shoeb Khan and Yadvendra Yadav, Advs.***ORDER**

1. Issue raised in this application is poor quality of air/air pollution in Bharatpur, Rajasthan due to loading and unloading of clinker (raw material of cement) at old Railway stack Yard, Bharatpur, Rajasthan without the sanction/permission leading to air pollution in Bharatpur, Rajasthan leading to various ailments such as lung cancer, asthma, bronchitis, eye or skin ailments, ingestion etc., and at time air pollution is so high leading to breathlessness and at more than danger level where the living and breathing by the human beings become very difficult and acute.

2. It is further stated that the pollution level in Bharatpur, Rajasthan in the last one year has instant increase and has reached at alarming stage which may take the shape of Natural Calamity if no immediate action is taken at the ground level by various authorities to check the Air pollution at the urgent level.

3. The petition has been filed with the prayer for directing the Respondents to forthwith stop the loading and unloading of clinker from the railway stack yard, Bharatpur, Rajasthan and to protect the environment and life of the people of Bharatpur and flora and fauna and further to issue an order in the nature of continuing mandamus, to constitute a high level committee to monitor the environment level at Bharatpur due to loading and unloading of clinker and to submit periodical reports to the Tribunal.

4. The matter was taken up on 25th May, 2021 and this Tribunal constituted a Committee consisting (i) District Collector, Bharatpur, Rajasthan and (ii) Rajasthan State Pollution Control Board with direction to visit the place submit the Factual and Action Taken report.

5. The Committee visited the place and submitted the report with the air quality which was assessed by Lab In-charge, Rajasthan State Pollution Control Board, Regional Office, Bharatpur and the analysis report sample of 06th July, 2021, it was found that the particulate matter (PM 10)  $\mu\text{g}/\text{m}^3$  was 345. The sample which was collected near Phatak of Railway no. 40 Malgodam Road, Bharatpur collected from Ambient Air Quality Monitoring at house of Ramesh Kumar during loading and unloading work of clinker was found at 697. Again the sample was taken on 12.07.2021 and the particulate matter (PM

10)  $\mu\text{g}/\text{m}^3$  was 581.

**6.** As per report submitted by the Joint Committee, the Senior Regional Manager Central Railway, Kota was taken into confidence and on the basis of the rack provided by the concerned department, the sample was taken on 05th July, 2021 at about 8.00 AM in the presence of the villagers as well as the complainant and the air quality was found at 345. Similarly, the sample which was taken between 2.00 pm to 5.00 pm it was found as 697 mg.

**7.** Respondent No. 7 M/s. Gunesh India Pvt. Ltd. has moved an application I.A. No. 47 of 2021 for early hearing which has been allowed. Another application I.A. No. 46 of 2021 has been moved with the facts that the District Collector vide letter dated 16.02.2021 has suspended the work of loading & unloading of clinkers at Bharatpur Railway Station, Old Stack Yard and the work of loading and unloading of clinker has been discontinued by the applicant respondent at Bharatpur Railway Station (Old Stack Yard).

**8.** It has further been submitted that in furtherance of the directions issued by the District Collector, Bharatpur vide letter dated 16.02.2021, the applicant-respondent firm has planted approx. 300 plants alongwith railway; green cover shed (cloth shed) having height of about of 30 feets, width 50 feets and length ranging from 200-700 feets has been installed, the work of loading & unloading shall be carried out within the covered shed only; water sprinkling system has been installed. It is also submitted that the applicant-respondent is also working for installation of teen cover shed within 6 months. In this regard, the Senior Divisional Commercial Manager, Kota Division vide letter dated 26.03.2021 has also requested the District Collector, Bharatpur to permit railway for loading & unloading work of clinkers as postponement of work has caused huge financial loss to railways and during the time of this pandemic approx. 250-300 laborers have lost their source of income.

**9.** During the course of work suspension of loading and unloading of clinkers, the officials of the Rajasthan State Pollution Control Board has carried out Ambient Air Monitoring on 05.03.2021 at Shri Ramesh Kumar, Near Phatak No. 40, Malgodan Road, Bharatpur. It is pertinent to mention here that during the work suspension period the  $\text{PM}_{10}$  of the area were  $610 \mu\text{g}/\text{m}^3$ .

**10.** The local laborers have also submitted their representation to the District Collector, Bharatpur to permit the loading & unloading work of clinkers which was suspended by District Collector, Bharatpur letter dated 16.02.2021.

**11.** The roads around Malgodan, Old Stack Yard, Railway Station Bharatpur are damaged, the nearby industrial activities, vehicular pollution due to damaged roads have also added in the pollution. It is pertinent to mention here that the within 500 proximity of the Old Stack Yard another railway yard is operating wherein loading & unloading of Cement bags and Plaster of Paris bags is being done. Therefore, the allegations made by the applicants against the respondents are without any scientific study and valid reasoning that the pollution is being done due to loading and unloading of clinkers only.

**12.** The suspension of loading and unloading work during this pandemic period has lead many laborers hand to mouth for their livelihood, as for some of them this has been a full time source of income to earn their livelihood. It is pertinent to mention here that approx. 300 families are directly and indirectly dependent on this work for their

livelihood.

**13.** That the applicant-respondent has taken due care so as to avoid any disturbance in the nearby area by installing green cover shed which shall be upgraded to teen shed cover within a period of six months in phase manner alongwith railway and as permitted by railway, water sprinkling facility has been done and plantation has also been done.

**14.** The Respondent No. 7 submitted that the authorities concerned may be directed to conduct continuous Ambient Air Monitoring of the area at-least for a period of four weeks and during the course of continuous ambient monitoring the respondent be directed to permit loading & unloading of at least 02 racks of clinkers per week and the respondent may be directed to submit an comparative analysis report of the continuous ambient air monitoring during loading & unloading of clinkers for this period.

**15.** While economic development should not be allowed at the cost of ecology or by causing widespread environmental destruction, the necessity to preserve ecology and environment should not hamper economic and other development. Both development and environment must go hand in hand. In other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment [Indian council for enviro-legal action v union of India MANU/SC/1189/1996 : [1996] 5 SCC 281]. The traditional concept that development and ecology are opposed to each other is no longer acceptable [Vellore Citizens Welfare Forum Vs. Union of India MANU/SC/0686/1996 : [1996] 5 SCC 647].

**16.** Apart from providing smooth flow of public goods and services which contribute to the economic growth, highways also benefit regional development in the country. In the normal course, impediments should not be created in the matter of National Highways which provide the much needed transportation infrastructure. At the same time, protection of environment is important.

**17.** In a constitutional framework which is intended to create, foster and protect a democracy committed to liberal values, the rule of law provides the cornerstone. The rule of law is to be distinguished from rule by the law. The former comprehends the setting up of a legal regime with clearly defined rules and principles of even application, a regime of law which maintains the fundamental postulates of liberty, equality and due process. The rule of law postulates a law which is answerable to constitutional norms. The law in that sense is accountable as much as it is capable of exacting compliance. Rule by the law on the other hand can mean rule by a despotic law. It is to maintain the just quality of the law and its observance of reason that rule of law precepts in constitutional democracies rest on constitutional foundations. A rule of law framework encompasses rules of law but it does much more than that. It embodies matters of substance and process. It dwells on the institutions which provide the are of governance. By focusing on the structural norms which guide institutional decision making, rule of law frameworks recognize the vital role played by institutions and the serious consequences of leaving undefined the norms and processes by which they are constituted, composed and governed. A modern rule of law framework is hence comprehensive in its sweep and ambient. It recognizes that liberty and equality are the focal point of a just system of governance and without which human dignity can be subverted by administrative discretion and absolute power. Rule of law then dwells beyond a compendium which sanctifies rules of law. Its elements comprise of substantive principles, processual guarantees and institutional safeguards that are designed to ensure responsive, accountable and sensitive governance.

**18.** The environmental rule of law, at a certain level, is a facet of the concept of the rule of law. But it includes specific features that are unique to environmental governance, features which are sui generis. The environmental rule of law seeks to create essential tools - conceptual, procedural and institutional to bring structure to the discourse on environmental protection. It does so to enhance our understanding of environmental challenges - of how they have been shaped by humanity's interface with nature in the past, how they continue to be affected by its engagement with nature in the present and the prospects for the future, if we were not to radically alter the course of destruction which humanity's actions have charted. The environmental rule of law seeks to facilitate a multi- disciplinary analysis of the nature and consequences of carbon footprints and in doing so it brings a shared understanding between science, regulatory decisions and policy perspectives in the field of environmental protection. It recognizes that the 'law' element in the environmental rule of law does not make the concept peculiarly the preserve of lawyers and judges. On the contrary, it seeks to draw within the fold all stakeholders in formulating strategies to deal with current challenges posed by environmental degradation, climate change and the destruction of habitats. The environmental rule of law seeks a unified understanding of these concepts. There are significant linkages between concepts such as sustainable development, the polluter pays principle and the trust doctrine. The universe of nature is indivisible and integrated. The state of the environment in one part of the earth affects and is fundamentally affected by what occurs in another part. Every element of the environment shares a symbiotic relationship with the others. It is this inseparable bond and connect which the environmental rule of law seeks to explore and understand in order to find solutions to the pressing problems which threaten the existence of humanity. The environmental rule of law is founded on the need to understand the consequences of our actions going beyond local, state and national boundaries. The rise in the oceans threatens not just maritime communities. The rise in temperatures, dilution of glaciers and growing desertification have consequences which go beyond the communities and creatures whose habitats are threatened. They affect the future survival of the entire eco-system. The environmental rule of law attempts to weave an understanding of the connections in the natural environment which make the issue of survival a unified challenge which confronts human societies everywhere. It seeks to build on experiential learning's of the past to formulate principles which must become the building pillars of environmental regulation in the present and future. The environmental rule of law recognizes the overlap between and seeks to amalgamate scientific learning, legal principle and policy intervention. Significantly, it brings attention to the rules, processes and norms followed by institutions which provide regulatory governance on the environment. In doing so, it fosters a regime of open, accountable and transparent decision making on concerns of the environment. It fosters the importance of participatory governance of the value in giving a voice to those who are most affected by environmental policies and public projects. The structural design of the environmental rule of law composes of substantive, procedural and institutional elements. The tools of analysis go beyond legal concepts. The result of the framework is more than just the sum total of its parts. Together, the elements which it embodies aspire to safeguard the bounties of nature against existential threats. For it is founded on the universal recognition that the future of human existence depends on how we conserve, protect and regenerate the environment today.

**19.** In its decision in *Hanuman Laxman Aroskar vs Union of India*, MANU/SC/0444/2019 : [2019] 15 SCC 401 the Court, recognized the importance of protecting the environmental rule of law. The court observed:

"142. Fundamental to the outcome of this case is a quest for environmental

governance within a rule of law paradigm. Environmental governance is founded on the need to promote environmental sustainability as a crucial enabling factor which ensures the health of our ecosystem.

**143.** Since the Stockholm Conference, there has been a dramatic expansion in environmental laws and institutions across the globe. In many instances, these laws and institutions have helped to slow down or reverse environmental degradation. However, this progress is also accompanied, by a growing understanding that there is a considerable implementation gap between the requirements of environmental laws and their implementation and enforcement - both in developed and developing countries alike ...

**156.** The rule of law requires a regime which has effective, accountable and transparent institutions. Responsive, inclusive, participatory and representative decision making are key ingredients to the rule of law. Public access to information is, in similar terms, fundamental to the preservation of the rule of law. In a domestic context, environmental governance that is founded on the rule of law emerges from the values of our Constitution. The health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution. Proper structures for environmental decision making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution."

**49.** In its first global report on environmental rule of law in January 2019, the United Nations Environment Programme ("UNEP") has presciently stated:

"If human society is to stay within the bounds of critical ecological thresholds, it is imperative that environmental laws are widely understood, respected, and enforced and the benefits of environmental protection are enjoyed by people and the planet. Environmental rule of law offers a framework for addressing the gap between environmental laws on the books and in practice and is key to achieving the Sustainable Development Goals.

Successful implementation of environmental law depends on the ability to quickly and efficiently resolve environmental disputes and punish environmental violations. Providing environmental adjudicators and enforcers with the tools that allow them to respond to environmental matters flexibly, transparently, and meaningfully is a critical building block of environmental rule of law."

**50.** The need to adjudicate disputes over environmental harm within a rule of law framework is rooted in a principled commitment to ensure fidelity to the legal framework regulating environmental protection in a manner that transcends a case-by-case adjudication. Before this mode of analysis gained acceptance, we faced a situation in which, despite the existence of environmental legislation on the statute books, there was an absence of a set of overarching judicially recognized principles that could inform environmental adjudication in a manner that was stable, certain and predictable. In an article in the Asia-Pacific Journal of Environmental Law (2014), Bruce Parry describes this conundrum in the following terms:

"Environmental regulations and standards typically identify specific

limits or prohibitions on detrimental activities or substances. They are created to reflect the principles and prohibitions contained in the statute under which they are promulgated. However, where the contents of the statute are themselves indeterminate, there is no concrete rule or set of criteria to apply to formulate the standards. Their development can therefore be highly political and potentially arbitrary.

Instead of serving to protect citizens' environmental welfare, an indeterminate environmental law 10 facilitates a utilitarian calculus that allows diffuse interests to be placed aside when they are judged to be less valuable than competing considerations."

**20.** However, even while using the framework of an environmental rule of law, the difficulty we face is this - when adjudicating bodies are called on to adjudicate on environmental infractions, the precise harm that has taken place is often not susceptible to concrete quantification. While the framework provides valuable guidance in relation to the principles to be kept in mind while adjudicating upon environmental disputes, it does not provide clear pathways to determine the harm caused in multifarious factual situations that fall for judicial consideration. The determination of such harm requires access to scientific data which is often times difficult to come by in individual situations.

**21.** In an article in the Georgetown Environmental Law Review (2020), Arnold Kreilhuber and Angela Kariuki explain the manner in which the environmental rule of law seeks to resolve this imbroglio:

"One of the main distinctions between environmental rule of law and other areas of law is the need to make decisions to protect human health and the environment in the face of uncertainty and data gaps. Instead of being paralyzed into inaction, careful documentation of the state of knowledge and uncertainties allows the regulated community, stakeholders, and other institutions to more fully understand why certain decisions were made."

The point, therefore, is simply this - the environmental rule of law calls on us, as judges, to marshal the knowledge emerging from the record, limited though it may sometimes be, to respond in a stern and decisive fashion to violations of environmental law. We cannot be stupefied into inaction by not having access to complete details about the manner in which an environmental law violation has occurred or its full implications. Instead, the framework, acknowledging the 11 imperfect world that we inhabit, provides a roadmap to deal with environmental law.

**22.** In a recent decision of the Court in Bengaluru Development Authority vs Sudhakar Hegde the Hon'ble Supreme Court held:

"107. The adversarial system is, by its nature, rights based. In the quest for justice, it is not uncommon to postulate a winning side and a losing side. In matters of the environment and development however, there is no trade-off between the two. The protection of the environment is an inherent component of development and growth...

"108. Professor Corker draws attention to the idea that the environmental protection goes beyond lawsuits. Where the state and statutory bodies fail in

their duty to comply with the regulatory framework for the protection of the environment, the courts, acting on actions brought by public spirited individuals are called to invalidate such actions...

"109. The protection of the environment is premised not only on the active role of courts, but also on robust institutional frameworks within which every stakeholder complies with its duty to ensure sustainable development. A framework of environmental governance committed to the rule of law requires a regime which has effective, accountable and transparent institutions. Equally important is responsive, inclusive, participatory and representative decision making. Environmental governance is founded on the rule of law and emerges from the values of our Constitution. Where the health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution, proper structures for environmental decision making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution. Sustainable development is premised not merely on the redressal of the failure of democratic institutions in the protection of the environment, but ensuring that such failures do not take place."

**23.** In *Lal Bahadur Vs State of Uttar Pradesh* MANU/SC/1742/2017 : [2018]15 SCC 407 the Court underscored the principles that are the cornerstone of our environmental 12 jurisprudence, as emerging from a settled line of precedent: the precautionary principle, the polluter pays principle and sustainable development. This Court further noted the importance of judicial intervention for ensuring environmental protection. In a recent decision in *State of Meghalaya & others vs All Dimasa Students Union*, MANU/SC/0877/2019 : [2019] 8 SCC 177 this Court reiterated the key principles of environmental jurisprudence in India, while awarding costs of Rs. 100 crores on the State of Meghalaya for engaging in illegal coal mining. The UNEP report (supra) also goes on to note:

"Courts and tribunals must be able to grant meaningful legal remedies in order to resolve disputes and enforce environmental laws. As shown in Figure 5.12, legal remedies are the actions, such as fines, jail time, and injunctions, that courts and tribunals are empowered to order. For environmental laws to have their desired effect and for there to be adequate incentives for compliance with environmental laws, the remedies must both redress the past environmental harm and deter future harm."

The above discussion puts into perspective our decision in the present appeals, through which we shall confirm the directions given by the NGT in its impugned judgment. The role of courts and tribunals cannot be overstated in ensuring that the 'shield' of the "rule of law" can be used as a facilitative instrument in ensuring compliance with environmental regulations.

**24.** In *Goel Ganga Developers India Pvt. Ltd. vs Union of India* MANU/SC/0841/2018 [2018] 18 SCC 257, the Court dealt with a situation in which the project proponent had engaged in construction that was contrary to the environmental clearance granted to it. Coming down on the project proponent, a two-judge bench, held as follows:

"64. Having held so we are definitely of the view that the project proponent who has violated law with impunity cannot be allowed to go scot-free. This Court has in a number of cases awarded 5% of the project 13 cost as damages.

This is the general law. However, in the present case we feel that damages should be higher keeping in view the totally intransigent and unapologetic behaviour of the project proponent. He has manoeuvred and manipulated officials and authorities. Instead of 12 buildings, he has constructed 18; from 552 flats the number of flats has gone up to 807 and now two more buildings having 454 flats are proposed. The project proponent contends that he has made smaller flats and, therefore, the number of flats has increased. He could not have done this without getting fresh EC. With the increase in the number of flats the number of persons residing therein is bound to increase. This will impact the amount of water requirement, the amount of parking space, the amount of open area, etc. Therefore, in the present case, we are clearly of the view that the project proponent should be and is directed to pay damages of Rs. 100 crores or 10% of the project cost, whichever is more."

**25.** The Court in *State of M.P. vs Centre for Environment Protection Research & Development*, MANU/SC/0647/2020 : [2020] 9 SCC 781 held as follows:

"41. The Tribunal constituted under the NGT Act has jurisdiction under Section 14 of the said Act to decide all civil cases where any substantial question relating to environment including enforcement of any right relating to environment is involved and such question arises out of the implementation of the enactments specified in Schedule I to the said Act, which includes the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986.

"42. In view of the definition of "substantial question relating to environment" in Section 2(1)(m) of the NGT 14 Act, the learned Tribunal can examine and decide the question of violation of any specific statutory environmental obligation, which affects or is likely to affect a group of individuals, or the community at large.

"43. For exercise of power under Section 14 of the NGT Act, a substantial question of law should be involved including any legal right to environment and such question should arise out of implementation of the specified enactments.

"44. Violation of any specific statutory environmental obligation gives rise to a substantial question of law and not just statutory obligations under the enactments specified in Schedule I. However, the question must arise out of implementation of one or more of the enactments specified in Schedule I."

**26.** It cannot be disputed that no development is possible without some adverse effect on the ecology and environment, and the projects of public utility cannot be abandoned and it is necessary to adjust the interest of the people as well as the necessity to maintain the environment. A balance has to be struck between the two interests. Where the commercial venture or enterprise would bring in results which are far more useful for the people, difficulty of a small number of people has to be bypassed. The comparative hardships have to be balanced and the convenience and benefit to a larger section of the people has to get primacy over comparatively lesser hardship".

This indicates that while applying the concept of "sustainable development" one has to keep in mind the "principle of proportionality" based on the concept of balance. It is an exercise in which we have to balance the priorities of development on one hand and environmental protection on the other hand.

**27.** The economic growth in the country has brought along rapid increase in the urbanization & Industrialization. Subsequently, there has been considerable increase in demand of material/commodities to cater the needs of growing economy which is channelized through different means of transportation, however the railways plays a vital role in the same. Freight services constitute the most important segment of activity of railway business. Indian Railways have carried 970 million tonnes of revenue earning freight traffic during fiscal 2011-12. There is increase of 48 million tonnes i.e. 5.24% over the freight traffic of 922 million tonnes carried during the corresponding period last year. Indian Railways carries bulk freight viz. ores and minerals, iron and steel, cement, mineral oils, food grains and fertilizers, containerized cargo etc.

**28.** In Indian Railway freight traffic is operated through Sidings. A railway siding is a place/area which are used to receive, temporarily store, load/unload material in the rakes. Sidings may be used for marshalling, stabling, storing, loading and unloading vehicles. The materials/commodities are loaded and unloaded here with the linked network of rail track and roads. The loading and unloading activities of pollution intensive commodities creates immense nuisance in and around the site. Sidings have attracted attention in India particularly due to pollution generated during loading and unloading activities and their locations mainly in urban areas. The pollution control measures have not been provided in substantial manner at sidings thereby adversely affecting the environment. Over the years no data are available on management of pollution from sidings although there are environmental impacts on water, air, human health, soil degradation and vegetation etc.

**29.** Central Pollution Control Board (CPCB) has been frequently receiving Public Complaints from the nearby residents of the Railway Sidings regarding problems of Air Pollution mainly due to the loading/unloading activities as well as transportation activities from Railway Sidings. CPCB has initiated a study on Inventorization of all the major sidings in the country and on the basis of the data collected through field surveys as well as Questionnaires the Guidelines on Environmentally Sound Management of Railway Sidings have been developed. CPCB hired the services of Rail India Technical and Economic Service(RITES), Gurgaon for carrying out this study.

**30.** On the basis of the studies the Central Pollution Control Board has issued certain guidelines which have been quoted hereunder and must be strictly observed in case of railway siding for loading and unloading.

#### "5.2.1 Air Pollution Control

The sources of pollution are mostly from loading and unloading and haul roads. The dust control plan for various activities at siding is as follows:

**5.2.1.1 Loading & Unloading:** The intensity of dust pollution largely depends on the loading and unloading process at siding which has significant impact on environment. The adoption of following practice will provide significant control on dust pollution:

- Mechanized wagon loading system
- Loading and unloading should be directly from trucks to wagons and wagons to trucks
- All storages & material handling systems should be under closed shed

**5.2.1.2 Haul Roads:** It was observed that during transportation of materials by road which causes spillages of material resulting dust formation. The most of the reviewed literatures and reports reveals that the major source of dust generation is due to wheel contact with road during vehicular movement. The management plan for minimizing haul road dust generation is as follows:

- An unpaved roads should be paved at the existing sidings,
- Higher grading of main haul roads and service roads to clear accumulated loose material,
- Regular sprinkling of water on haul roads for dust suppression,
- Dust dislodgement from vehicular movement must be minimized by implementing speed limits,
- The trucks carrying cement should be covered with the Tarpaulin.
- Truck body washing system before entering and outing from siding area
- Vehicular movement at the siding area, shall be regulated effectively to avoid traffic congestion and to protect the workers from dust due to exposure in dusty environment,
- Emissions from the heavy duty vehicles operating in and out of siding shall follow the standard under Motor Vehicles Rules.
- Afforestation with dust filtering trees around siding area for control of dust.

Dust emission from the various activities at siding is in the form of Particulate Matter PM10 and PM2.5. The permissible limit for these parameters is given in the National Ambient Air Quality Standards, CPCB. All the air pollution parameters at sidings should comply with this standard.

#### **7.2.10 Environmental Monitoring**

Environmental monitoring should be the major component of the environmental policy formulated for sidings.

- Environmental monitoring will be undertaken by the concern siding owner on periodic basis,
- This monitoring will be undertaken in order to ensure compliance with all aspects or requirements of the Environmental Measures.
- Undertake external audits.
- Visual monitoring must be carried out periodically to ensure that the concerned activities create no impacts in and around the siding area.

#### **7.2.11 Implementation of Environmental Management**

The protection of environment will be the responsibility of siding owners. Siding owner shall develop an environmental management unit. The task of the

unit would be to supervise and co-ordinate implementation of environmental mitigation measures.

### 8.2.1 Air Pollution Control

Dust control plan for loading and unloading mostly requires at coal, mineral and loose materials handling sidings. The dust control plan for various activities at siding is as follows:

**Loading & Unloading:** The intensity of dust pollution largely depends on the loading and unloading process at siding which has significant impact on environment. The adoption of following practice shall provide significant control on dust pollution:

- Provision of mechanized loading and unloading.
- An independent water spraying system should be established before loading and unloading.

**Storage:**

- Provide dust protection network i.e. wind screens all around the siding area for dust protection,
- Open storages may become sources of wind-generated dust hence these must be covered with polyethylene/canvas sheets during windy periods.

**Haul Roads:** The major source of dust generation is due to wheel contact with road during vehicular movement. The management plan for minimizing haul road dust generation is as follows:

- An unpaved roads should be paved at the existing sidings on priority basis,
- Higher grading of main haul roads and service roads to clear accumulated loose material,
- Regular sprinkling of water on haul roads for dust suppression,
- The chemical suppressant can be used at the water scarcity places,
- Truck body washing system before entering and outing from siding area
- The trucks carrying minerals should be covered with the Tarpaulin.
- The trucks should not be filled to the top i.e. it should not be overloaded,
- Dust dislodgement from vehicular movement must be minimized by implementing speed limits,
- Vehicular movement at the siding area, shall be regulated effectively to avoid traffic congestion and to protect the workers from dust due to exposure in dusty environment,

- Emissions from the heavy duty vehicles operating in and out of siding shall follow the standard under Motor Vehicles Rules.
- Mineral transport through conveyors within siding shall have to be done under enclosed conditions,
- Afforestation with dust filtering trees around railway siding area for control of dust.

Dust emission from the various activities at siding is in the form of Particulate Matter PM10 and PM2.5. The permissible limit for these parameters is given in the National Ambient Air Quality Standards, CPCB. All the air pollution parameters at sidings should comply with this standard.

### 8.2.2 Noise Pollution Control

Noise dispersion is based upon the distance it travels. The major noise generating machineries/equipments are within definite boundary of railway siding area. Hence, noise has insignificant impact on the surrounding area. The major noise activities at siding are loading and unloading of wagons, loader vehicle and trucks movement.

However, due to some sidings which comes within city limits have some possibility of noise disturbance which can be protected through the following practices:

- Proper and timely maintenance of loading & unloading machineries,
- Provision of Green Belt for noise control,
- The operators and workers working in the high-noise areas shall be provided with ear-muffs/ear-plugs,
- The operator's cabins (control rooms) shall be properly (acoustically) insulated with special doors and observation windows,
- Acoustic laggings and silencers shall be provided in equipment wherever necessary,
- The silencers and mufflers of the individual machines shall be regularly checked,
- If generators will be used it should ensure that these machine/equipment meet the desired noise/vibration standards by providing noise absorbing material in enclosures,
- Provision of wind dust wall also acts as noise barrier to some extent,
- Restricting speed and preventing idling of transport vehicles,
- Use of high pressure horns operating within the siding and surrounding area shall be avoided

The permissible limit for noise is given in the National Ambient Noise Quality Standards, CPCB. The Noise quality at sidings should comply with this standard.

## 8.2.4 Solid Waste & Hazardous Waste management

### Solid Waste Management:

- Solid wastes should be collected, segregated, transported and disposed at an authorized waste disposal facility,
- Temporarily storage facility should be designed in such a way that waste stored are not exposed to open atmosphere and are aesthetically acceptable,
- Storage bins should be painted green for biodegradable, blue for recyclable and red for non-biodegradable,
- Specific precautions must be taken to prevent refuse from being dumped on or in the vicinity of the siding,
- Waste bins should be cleaned out on a regular basis to prevent any windblown waste and/or visual disturbance.
- Under no circumstances, waste is to be burnt or buried on siding area.

### Hazardous Material Storage & Waste Management:

- The storage area must be secured with restricted entry and all hazardous substances such as fuel, oils, chemicals, etc., must be stored therein. Drip trays, a thin concrete slab or a facility with PVC lining, must be installed in such storage areas with a view to prevent soil and water pollution,
- Soil contaminated by fuel leakage shall be removed and disposed of in an approved manner,
- Petrochemicals, oils and identified hazardous substances shall only be stored under controlled conditions,
- Material Safety Data Sheets (MSDS) for onsite chemicals, hydrocarbon materials and/or waste and hazardous substances must be readily available. MSDS should include information pertaining to environmental impacts and measures to minimize and mitigate against any potential environmental impacts which may result from a spill,
- The management should prepare a method statement and plans for the storage of hazardous substances and emergency procedure,
- Storage of hazardous substances must not be within 100m of any drainage lines;
- Provide proper warning signage to make people aware of the activities within the designated areas,
- Spills should be cleaned up immediately to the satisfaction by removing the spillage together with the polluted soil and by disposing of it at a specified site,

- Training to staff on the safe disposal of hazardous waste and the use of spill kits.
- Hazardous waste is to be disposed at a Permitted Hazardous Waste Landfill Site.

### 8.2.5 Soil Erosion

Soil erosion at siding site must be prevented by adopting proper measures at all times. Visual monitoring should be carried out through manual inspection and photographic records. Visual monitoring should be carried out by staff with good observational skills and the ability to collect the reliable data for record and report. It should identify the areas where immediate action is required. The soil erosion should be controlled by the following actions:

- Suitable erosion control measures must be implemented in areas sensitive to erosion such as open areas and edges of slopes,
- The exposed soil areas should be vegetated to ensure that soil is protected from the erosion,
- The removal of vegetation, only if it is necessary,
- Preventing the unnecessary removal of vegetation especially on steep slopes,
- The suitable use of sand bags or jute sheets.

### 8.2.6 Green Belt Development

The greenbelt development plan aims at overall improvement in the environmental conditions of the region. The green belt helps to capture the fugitive emissions and attenuate the noise generated at site along with improving the aesthetics of the area. Green vegetation cover is beneficial in many ways, such as retention of soil moisture, prevention of soil erosion, recharge of ground water and moderation of microclimate. Another important role of green belt relates to containment of air pollution.

Keeping in view the climatic conditions and quality of soil, the types of species shall be selected for plantation around the siding and along the roads. In addition to above some flowering plants, shrubs, herbs, and climber species shall also be planted for beautification of the siding area. Selected species should have faster growth, and helpful in soil and water conservation. At existing railway sidings, a green belt of at least 15 meter width needs to be developed with immediate effect. Also, trees planted all along the connecting and approach roads restrict dust pollution due to movement of vehicles.

Greenbelt Development Plan: In order to capture the pollutants, a greenbelt along the periphery of siding area should be developed. The general plan for development of greenbelt is summarized below:

- Native species having characteristics of attenuation of pollution & Fast growing trees shall be planted,
- Trees growing up to height of 10 m or more should be planted

around the siding area,

- Row planting pattern of trees should be undertaken around the installation to prevent horizontal dispersion of pollutants,
- Trees should also be planted along roadsides, to arrest auto exhaust and noise pollution
- Turfing of grass (lawn) for effective trapping and absorption of air pollutants,
- The species identified for greenbelt development shall be planted using pitting technique.

**TABLE 8.2**

**PLANTS SUGGESTED FOR GREEN BELT DEVELOPMENT**

Sr. No	Botanical name	Common name
1	<i>Azadirachta indica</i>	Neem
2	<i>Syzygium cumini</i>	Jamun
3	<i>Acacie nilotica</i>	Babul
4	<i>Dalbergia sisso</i>	Shisham
5	<i>Emblica officinalis</i>	Amla
6	<i>Pongamia pinnata</i>	Karanj
7	<i>Tectona grandis</i>	Sagwan
8	<i>Acacia arabica</i>	Baboo

**TABLE 8.3**

**PLANTS SUGGESTED FOR GREEN BELT DEVELOPMENT**

Sr. No	Botanical name	Common name
1	<i>Azadirachta indica</i>	Neem
2	<i>Aegle marmelos</i>	Bel
3	<i>Saraca indica</i>	Sita-Ashoka
4	<i>Dalbergia latifolia</i>	Shisham
5	<i>Albizzia lebbek</i>	Siris
6	<i>Tectona grandis</i>	Teak
7	<i>Polyathiaa</i>	Ashoka
8	<i>Ficus religiose</i>	Peepal
9	<i>Magnifera indica</i>	Mango

### 8.2.9 Public Complaints

Despite widespread pollution intensive activities and receipt of numerous complaints, siding owners need to frame comprehensive guidelines relating to handling and transportation of pollution intensive commodities. To address the community complaints on pollution due to freight traffic and siding operation are the responsibility of siding owners. Appropriate response to the community complaints is likely to reduce the number of both ongoing and new pollution related community issues. Siding owners should prepare specific guidelines for handling of community complaints and this should include:

- Clear and regular communication with community groups, councils, forums and individuals to discuss the issues,
- Recording and attending the complaints, coordinating the response and providing a solution,
- Information on pollution mitigation initiatives being undertaken,

- Improved relations with local communities, councils and forums that raise the social responsibility profile and provide opportunity to better focus solutions to root cause of community perception and concerns

#### **8.2.10 Environmental Monitoring**

Environmental monitoring should be the major component of the environmental policy formulated for sidings.

- Environmental monitoring will be undertaken by the concern siding owner on periodic basis,
- This monitoring will be undertaken in order to ensure compliance with all aspects or requirements of the Environmental Measures.
- Undertake external audits.
- Visual monitoring must be carried out periodically to ensure that the concerned activities create no impacts in and around the siding area.

#### **8.2.11 Implementation of Environmental Management**

The protection of environment will be the responsibility of siding owners. Siding owner shall develop an environmental management unit. The task of the unit would be to supervise and co-ordinate implementation of environmental mitigation measures.

#### **8.2.12 Education and Awareness Programs**

Siding Owners must initiate the internal as well as external awareness programs involving all the stakeholders in controlling and enhancing the environment. This will include meetings, environmental forums on and off site to analyse dust generation events. Internal/External education and awareness for the management of pollution from siding activities shall help to improve operational proficiency in the handling of materials. Improved loading competency leads to reduce pollution.

Develop environmental awareness among operational and maintenance personnel associated with siding activities. Development of operator procedural training to implement revised and new unloading practices should be ensured to maintain the consistent work practices among all work personnel's involved in loading & unloading activities. An Environmental Awareness programme shall be implemented for all siding personnel to acquaint about the key environmental issues and potential impacts thereof. It will be ensured that employee information posters, outlining the environmental "do's" and "don'ts" (as per the environmental awareness training course) are erected at prominent locations within the siding area.

Environmental Awareness Plan should be such that, the goals setup by the management for pollution abatement be met. Management is responsible to formulate the procedure to carry out the pollution abatement program. Responsibility of management should be in strict compliance with the comprehensive training and programs. General environmental training is to ensure that employees and contractors at each relevant function and level should receive environmental training and be aware of the environmental

management initiatives undertaken during operations. Progress on compliance with the training program must be verified during the Management meetings. The various parameters for the training programs should include:

- Dust management
- Water management
- Waste management
- Spill management
- Complaint Management
- Incident reporting

**31.** In light of the contention raised by the learned counsel of the parties, we are of the view that commercial activities which are within the concept of sustainable development cannot be restricted and a balance should be made between the sustainable development and maintenance of environmental laws. The public health and maintenance of air quality is the constitutional mandate while sustainable development is also required for economic development of the nation. Accordingly, we are of the view that State Pollution Control Board should periodically monitor the air quality index and during the period when air quality is not within the control only in those period the necessary directions be issued restricting the loading and unloading the racks of clinkers. During the period when the air quality is within the parameter laid down by the State Pollution Control Board, the functioning of the loading and unloading should not be restricted. A scientific study is required to be taken about the contribution of ratio of load of pollution caused by loading and unloading, the clinker at the place. If the pollution load is for other reasons, the Railway Department should not be solely accounted for that reason. Decisions are required to be taken after considering all relevant factors causing increase of pollution. In view of the above facts, I.A. No. 46 of 2021 moved by Respondent No. 7 is allowed to the extent that during the period when the Ambient Air Quality is as per prescribed standard and increase is not solely for the reasons of siding work, the loading and unloading of the clinkers should not be restricted. The State Pollution Control Board should periodically monitor the Ambient Air Quality within the area and necessary remedial action should be taken immediately and the regulation issued by the name "inventorisation of railway siding and guidelines for their environment management" must be strictly observed with.

With the above directions, the Original Application No. 20 of 2021 is finally disposed of.

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Annexure R-4

26<sup>th</sup> December, 2022

To,  
**The Regional Officer,**  
Regional Office & Laboratory  
Uttar Pradesh Pollution Control Board  
Aligarh (Uttar Pradesh)

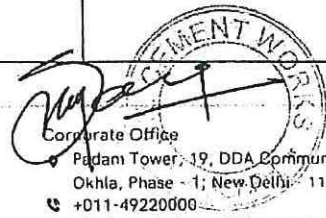
**Subject: Regarding reply of recommendations of Joint Committee members in the matter of Mukesh Kumar Chauhan v/s State of Uttar Pradesh.**

Reference: 1. Letter no: 2256/ OA-253/ 2022 issued by UPPCB on 14.12.2022  
2. O.A. No. 537 of 2022

Dear Sir,

With reference to the aforesaid subject and above cited reference matter, we are herewith submitting the Compliance of the observations/ recommendations given by Joint Committee (CPCB, UPPCB & District Magistrate, Aligarh, Uttar Pradesh) as follows:

S. No.	Observations/ Recommendations	Compliance Status
<b>Observations</b>		
1.	The clinker was unloaded manually from wagons at 650-meter-long line no. 14 of Harduaganj railway station which is further loaded on trucks through JCB and transported to (02) cement plant namely M/s. J K Cement Limited and M/s. Mangalam Cement Limited located at approx. 1.5 km and approx. 6 km from the Harduaganj railway station respectively.	The railway siding is owned and operated by the Indian Railway. Clinker unloading and its transportation to our Plant is performed by M/s. Vision Next Road Lines (VNRL). However, our clinker handing agency has taken all the precautions and implemented the best measures to control the fugitive dust emission which are as follows: a) Water sprinkling on railway siding and approach road as & when required. b) Mist / anti-smoke guns are provided and operated as required to suppress dust particles. c) Greenbelt (800 trees) has been developed all along the railway siding. d) Green cloth curtain has been provided on both sides of sidings to trap the flying particles generated during the process. e) Photographs showing the same are attached as <b>Annexure -1</b> along with this reply.



Corporate Office  
Padam Tower -19, DDA Community Centre,  
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+011-49220000  
admin.padamtower@jkcement.com  
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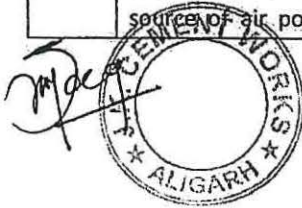
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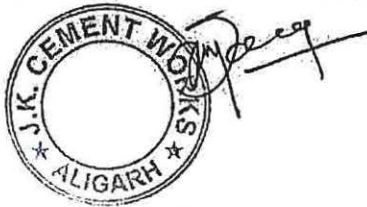
2.	During visit, applicant was connected telephonically to associate with joint committee at railway site but applicant had not appeared at railway site.	The applicant has submitted a representation to UPPCB for withdraw of complaint.
3.	The processing capacity of cement plant namely M/s. JK Cement Limited and M/s. Mangalam Cement Limited are 1.5 million ton per year and 1.2 million ton per years respectively.	Noted.
4.	During visit, the platform near line no. 14 was found unpaved, which is also cause of fugitive emission during transportation.	<p>The railway siding is owned and operated by Indian Railways and the same is in operation since long, even before setting up of our plant.</p> <p>However, our clinker handling agency has deployed water tanker to maintain wet the drive area so as to control the dust generation.</p>
5.	Fugitive emission was observed while unloading and loading of clinker at station.	<p>During the site visit we were also present at the railway siding and seen the level of dust generation which generate while handling of any such mineral or material in open or closed system.</p> <p>For control of such dust generation, the best available measures have been implemented as mentioned at Point no1, so that the dust should not go out of the handling area and contribute in the air quality of the area.</p> <p>The photographs of the nearby area and even of 500 mtr radius of handling area clearly indicate the effectiveness of the control measures implemented by the M/s. Vision Next Road Lines (VNRL).</p>
6.	No worker was found using Proper Protective Equipment (PPEs) while loading and unloading activity.	<p>All employees have been provided the PPEs and they use as required. This handling site is fully mechanized and all working persons sit in AC cabin of HEMM while handling. Photographs given in point.No.1</p> <p>However, other people standing there during inspection were not the employee of the</p>



		handling agency and they come because the railway boundary is open completely.
7.	During visit, it is observed that one antismog gun is available for dust suppression which was found non-operational.	During the inspection, one antismog gun was deployed at the site and is operated if dust is generated. Since the material was sufficient moist and its operation was not required.  However, two antismog guns are deployed for simultaneously run at multiplications.
8.	During visit, a water tanker was found operational for sprinkling of water on road of railway siding. Water was extracted through a pumping set from the bore well. No flowmeter was installed at bore well and no permission was obtained for extraction of groundwater.	One BW has been installed on the Railway land since years and water has been taken for dust suppression and plantation. Tanker capacity is 3 KL and three tankers are daily used for spray, hence maximum 9 KL water is used daily.  As per our understanding, in such case, no CGWA NOC is required as it constructed years ago and withdrawal is < 10 KLD.
9.	During visit, it is observed that covering of green color cloths of height approx. 20 feet and length approx. 300 meter was placed at one side of station as temporary arrangement for control of dust emission. Covering of green color cloths for other side of station was under progress.	A green curtain has been provided on both sides. Photographs enclosed.
10.	No permanent system for dust suppression was observed at railway station. Existing system for fugitive emission under control is observed to be inadequate and improper.	A dedicated water tanker with sprinkle nozzles to make fine water mist has been deployed to make material sufficient moist and handling area as well. Moreover, two antismog guns are provided to suppress the dust generated during the handling and green cover on both sides of railway sidings to check the dust particles go away by the wind.  The system is working perfectly and no such dust were seen during the inspection carried away from the side.
11.	As per specific condition no. 15 of consent issued to M/s. JK Cement Limited under section 21/22 of Air (Prevention and control of Pollution) Act, 1901, "Industry shall focus on the different un-assessed source of air pollution in bagging plant	At the railway siding all best available measures have been implemented by the clinker handling agency. Moreover, the land belongs to railway and is operated / maintained by the railway.



	and accordingly make a pucca arrangement to control cement dust generating from loading of trucks/ railway wagons. Copy of consent is issued to both the Cement plant.	At our plant site, all roads are cemented, all unloading hoppers and covered, all conveyor belts are covered and dust control devices are installed. The plant has been visited by the officials during the day and the photographs of the plant and nearby farmland are enclosed showing neat and clean operation.																																				
12.	<p>Ambient air quality stations have been installed at two (02) locations near station and Satha village as per availability of power connection. Sample is analyzed by UPPCB test result is as below:</p> <p><b>Location - 1 Village Satha, Tehsil Koli, District - Aligarh</b></p> <table border="1"> <thead> <tr> <th>Parameters</th> <th>24 Hours average value (<math>\mu\text{g}/\text{m}^3</math>)</th> <th>Prescribed Standards (<math>\mu\text{g}/\text{m}^3</math>)</th> </tr> </thead> <tbody> <tr> <td>PM10</td> <td>165.99</td> <td>100</td> </tr> <tr> <td>SO2</td> <td>19.3</td> <td>80</td> </tr> <tr> <td>NO2</td> <td>26.8</td> <td>80</td> </tr> </tbody> </table> <p><b>Location - 2 Near Harduaganj Railway Station, Tehsil Koli, District - Aligarh</b></p> <table border="1"> <thead> <tr> <th>Parameters</th> <th>24 Hours average value (<math>\mu\text{g}/\text{m}^3</math>)</th> <th>Prescribed Standards (<math>\mu\text{g}/\text{m}^3</math>)</th> </tr> </thead> <tbody> <tr> <td>PM10</td> <td>194.21</td> <td>100</td> </tr> <tr> <td>SO2</td> <td>19.3</td> <td>80</td> </tr> <tr> <td>NO2</td> <td>26.3</td> <td>80</td> </tr> </tbody> </table>	Parameters	24 Hours average value ( $\mu\text{g}/\text{m}^3$ )	Prescribed Standards ( $\mu\text{g}/\text{m}^3$ )	PM10	165.99	100	SO2	19.3	80	NO2	26.8	80	Parameters	24 Hours average value ( $\mu\text{g}/\text{m}^3$ )	Prescribed Standards ( $\mu\text{g}/\text{m}^3$ )	PM10	194.21	100	SO2	19.3	80	NO2	26.3	80	<p>High dust observed during the visit is due to other local sources and therefore emission should be measures with and without the clinker handling operation to know the contribution of handling.</p> <p>Moreover, in the nearby area of farmland, the last year and this year farm produce should be checked with Govt record for establishing the reason of crop loss, if any.</p> <p>As the best available measures have been taken and we measured the PM10 with and without the siding operation on 23<sup>rd</sup> Dec, 22 and found the following results. Monitoring was carried out by NABL Accredited Lab and Approved by the CPCB, M/s Enviro Tech Services Ghaziabad UP.</p> <p>Location: Village Santha</p> <table border="1"> <thead> <tr> <th>Unit</th> <th>During material Loading</th> <th>Without Loading</th> </tr> </thead> <tbody> <tr> <td>Ug /Mt3</td> <td></td> <td></td> </tr> <tr> <td>PM10</td> <td>92</td> <td>88</td> </tr> <tr> <td>Std 100 ug/m3</td> <td></td> <td></td> </tr> </tbody> </table>	Unit	During material Loading	Without Loading	Ug /Mt3			PM10	92	88	Std 100 ug/m3		
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13.	It is evident from above result PM-10 is not meeting with prescribed limit of ambient air quality in both the locations.	Reason of high dust level in the area has been mentioned at point no. 12 which is due to local activities and transportation as well.																																				

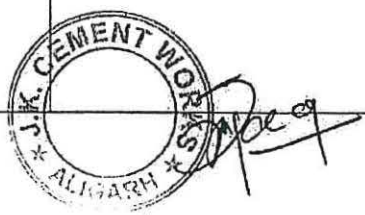


Recommendations		
1.	Railway authority in cooperation with concerned cement industry must develop proper and permanent facility to control and suppress the fugitive dust emission generation while loading, un-loading and transportation of clinker at line no. 14 of Harduaganj railway station. An action-plan should be submitted in this regard to SPCB:	The railway siding is owned and operated by the Indian Railway. Clinker unloading and its transportation to our Plant is performed by M/s. Vision Next Road Lines (VNRL). However, our clinker handing agency has taken all the precautions and implemented the best measures to control the fugitive dust emission which are as follows: f) Water sprinkling on railway siding and approach road as & when required. g) Mist/ smoke guns' are provided and operated as required to suppress dust particles. h) Greenbelt (800 trees) has been developed all along the railway siding. i) Green cloth shed has been provided on both sides of sidings to trap the flying particles generated during the process. Photographs showing the same are attached as <b>Annexure -1</b> along with this reply.
2.	The platform area near the line no. 14 should be paved to avoid fugitive emission while movement of trucks.	The railway siding is owned and operated by Indian Railways and the same is in operation since long, even before setting up of our plant.  However regular water is sprayed to maintain the movement area sufficient wet to avoid any dust generation.
3.	Regular water sprinkling should be done on the roads and platform area to suppress road dust.	Regular water is being sprayed. Photograph of the same is attached for ready reference please.
4.	Industries/ railway authority should carry out monthly ambient air quality monitoring near station area and submit compliance report to UPPCB	Ok, Noted.
5.	Industries should comply specific condition no. 15 of consent under section 21/ 22 of Air (Prevention and Control of Pollution) Act, 1981, i.e. 'Industry shall focus on the different un-assessed source of air pollution in bagging plant and accordingly make a pucca arrangement to	Company has implemented all the best available measures to control the dust from loading and unloading which are given as below: ✓ Enclosure are being provided for unloading of raw material.



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	<p>control cement dust generating from loading of trucks/ railway wagons</p>	<ul style="list-style-type: none"> <li>✓ Raw materials are being unloaded in the covered areas to avoid the generation of fugitive dust.</li> <li>✓ Bag house/Bag filters are installed inside the plant premises.</li> <li>✓ Transfer point locations are fully enclosed.</li> <li>✓ Floors are regularly swept.</li> <li>✓ Air borne dust is being controlled by water sprinkling.</li> <li>✓ The raw materials/ end products are stored in closed premises.</li> <li>✓ Collected dust is being recycled back into the process.</li> <li>✓ Travel paths of the pay loaders are paved and swept frequently by vacuum sweeping m/c.</li> <li>✓ Photographs showing the same are attached as <b>Annexure -1</b> along with this reply.</li> </ul> <p>We at JK Cement are committed for sustainable working to protect environment and any other suggestions/ requirement to further reduce the impacts on environment will be implemented by the company.</p>
<p>6.</p>	<p>Assessment of environmental compensation due to loading and unloading of clinker at railway station should be carried out by SPCB and accordingly environmental compensation should be imposed.</p>	<p>The railway siding is owned and operated by the Indian Railway. Clinker unloading and its transportation to our Plant is performed by M/s. Vision Next Road Lines (VNRL). However, our clinker handling agency has taken all the precautions and implemented the best measures to control the fugitive dust emission.</p> <p>High dust observed during the visit is due to other local sources and therefore emission should be measures with and without the clinker handling operation to know the contribution of handling.</p> <p>Moreover, in the nearby area of farmland in 500 mtr radius, the last year and this year farm produce should be checked for establishing the reason of crop loss or environment compensation.</p>



		<p>As the best available measures have been taken and we measured the PM10 with and without the siding operation on 22<sup>nd</sup> Dec,22 and found the results without hardly any impact of handling activity.</p> <p>Applicant has also submitted a representation for withdrawal of complaint, hence environmental compensation doesn't applicable in this case.</p>
7.	Permission from CGWA for extraction of ground water should be taken as per rule.	<p>One BW has been installed on the Railway land since years and water has been taken for dust suppression and plantation. Tanker capacity is 3 KL and three tankers are daily used for spray, hence maximum 9 KL water is used daily.</p> <p>In such case, no CGWA NOC is required as it constructed years ago and withdrawal is &lt; 10 KLD.</p>

Sir, we would also like to apprise your good office that the applicant has also submitted a representation for withdrawal of complaint, hence environmental compensation doesn't applicable in this case and hope the submitted information is in order with the requirements.

We also request, the head office of the Board at Lucknow to kindly send a high level team from Head Office to visit the area & our plant and monitor the emission to verify the facts as we are fully complying with the relevant environmental legislations and following the Board directions/ suggestion given from time to time and review the recommendations as our case doesn't attract the environment compensations.

Thanking you and with regards,  
For M/s. JK Cement Works, Aligarh

Sanyog Kumar  
(Unit Head)

Encl: As above

Cc to:

1. The Member Secretary, UP Pollution Control Board, Lucknow
2. The Chief Engineer (Circle-4), UP Pollution Control Board, Lucknow  
(with request to kindly send a high level team from head office to visit the area & our plant and monitor the emission to verify the facts)

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(COLLY)

मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ.ए. संख्या-537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू.पी. में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित संयुक्त कमेटी द्वारा शिकायती स्थल का निरीक्षण दिनांक 10.11.2022 को किया गया। निरीक्षणोंपरान्त प्राप्त प्रतिउत्तर के सन्दर्भ में निरीक्षण आख्या।

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कृपया उपरोक्त विषयक के सम्बन्ध में मै0 जे0के0 सीमेन्ट लि0, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़, मै0 मंगलम सीमेन्ट, सी0डी0एफ0 कॉम्प्लेक्स, छेरत, अनूपशहर रोड, तहसील-कोल, जनपद-अलीगढ़, मै0 विजन नेक्स्ट रोड लाइन, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ एवं मै0 पी एण्ड पी एक्विजम प्रा0लि0, सूतमिल चौराहा, जनपद-अलीगढ़ को इस कार्यालय के पत्र संख्या-2256 दिनांक 14.12.2022 के माध्यम से संयुक्त निरीक्षण आख्या दिनांक 10.11.2022 को पत्र के साथ संलग्न कर प्रेषित की गयी थी। मै0 जे0के0 सीमेन्ट लि0, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ एवं मै0 विजन नेक्स्ट रोड लाइन, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ द्वारा अपना प्रतिउत्तर कार्यालय में दिनांक 27.12.2022 एवं दिनांक 05.01.2023 को प्राप्त कराया गया है। प्राप्त प्रतिउत्तर के सन्दर्भ में सन्दर्भित स्थल का निरीक्षण इस कार्यालय द्वारा दिनांक 09.01.2023 को किया गया। निरीक्षण के समय मै0 विजन नेक्स्ट रोड लाइन, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ में प्रतिनिधि के रूप में श्री उपेन्द्र कुमार, डायरेक्टर उपस्थित मिले। विस्तृत निरीक्षण आख्या निम्नवत् है-

1. निरीक्षण के समय रेलवे स्टेशन, हरदुआगंज रेलवे साइडिंग के लाइन नं0-14 के किनारे स्थित लोडिंग/अनलोडिंग एरिया में 02नग टैंकर के माध्यम से वाटर स्प्रेकलिंग का कार्य होता हुआ पाया गया।
2. निरीक्षण के समय लोडिंग/अनलोडिंग साइट पर 02नग पोर्टेबल एन्टी स्मोगन स्थित पाये गये एवं दोनों एन्टी स्मोगन से जल छिडकाव होता हुआ पाया गया। निरीक्षण के समय उपस्थित प्रतिनिधि मै0 विजन नेक्स्ट रोड लाइन द्वारा अवगत कराया गया कि एन्टी स्मोगन मशीन फर्म द्वारा क्रय किया गया है। टैक्स इन्वाइस की छायाप्रति संलग्न है।
3. निरीक्षण के समय उपस्थित प्रतिनिधि मै0 विजन नेक्स्ट रोड लाइन द्वारा मै0 इन्वायरों टैक सर्विसेस, प्लॉट संख्या-132, एस.एस. ऑफ जी0टी0 रोड, औद्योगिक क्षेत्र, गाजियाबाद द्वारा हरदुआगंज रेलवे स्टेशन एवं ग्राम-साथा का परिवेशीय वायु गुणता का अनुश्रवण लोडिंग एवं अनलोडिंग दोनों स्थितियों में कराया गया है। छायाप्रति संलग्न है।
4. निरीक्षण के समय रेलवे स्टेशन हरदुआगंज के रेलवे साइडिंग एवं वाहनों के आवागमन हेतु मार्ग कच्चा होने के कारण डस्ट/धूल उडना स्वाभाविक है। निरीक्षण के समय उपस्थित प्रतिनिधि मै0 विजन नेक्स्ट रोड लाइन द्वारा अवगत कराया गया कि उक्त रास्ता एवं रेलवे साइडिंग को पक्का बनाने हेतु रेलवे द्वारा कार्य किया जाना है।
5. निरीक्षण के समय हरदुआगंज रेलवे साइडिंग पर वाहनों के आवागमन एवं लोडिंग/अनलोडिंग से जनित फिज्जिटिव डस्ट के नियंत्रण हेतु रेलवे स्टेशन की पूरब एवं पश्चिम दिशा साइट से लगभग-20 फीट ऊँची 600 मीटर दोनों तरफ लम्बी अस्थाई ग्रीन नेट से बाउण्ड्री से कवर्ड किया गया (फोटोग्राफ संलग्न है)।
6. निरीक्षण के समय मालगाडी/रैक मौजूद न होने के कारण अनलोडिंग का कार्य होता हुआ नहीं पाया गया। किन्तु लोडिंग कार्य हो रहा था। निरीक्षण के समय लोडिंग के दौरान वर्कर द्वारा उपयुक्त पी0पी0ई0 का प्रयोग होता हुआ नहीं पाया गया।
7. निरीक्षण के समय रेलवे साइडिंग पर स्थित बोरवेल पर पम्प सेट स्थापित पायी गयी। उक्त बोरवेल से पानी दोहन की अनुमति जिला स्तरीय भूगर्भ जल प्राधिकरण अलीगढ़ से प्राप्त किया गया है अथवा नहीं के सम्बन्ध में कोई अभिलेख प्रस्तुत नहीं किया गया है।
8. निरीक्षण के समय उपस्थित मै0 विजन नेक्स्ट रोड लाइन द्वारा अवगत कराया गया कि रेलवे साइडिंग हरदुआगंज पर स्थित उक्त बोरवेल रेलवे का है। जल दोहन की अनुमति रेलवे को प्राप्त करनी है एवं हमारे द्वारा पानी के छिडकाव हेतु मै0 जे.के.सीमेन्ट उद्योग से पानी के टैंकर भरकर लाया जाता है।

आख्या आपके अवलोकनाथ एवं अग्रिम आवश्यक कार्यवाही हेतु सादर प्रेषित।

(उपेन्द्र प्रसाद)  
अवर अभियन्ता

(अजय कुमार)  
सह0पर्या0अभि0

(डॉ0 जे0पी0 सिंह)  
क्षेत्रीय अधिकारी (प्र0)  
(डॉ0 जे0पी0 सिंह)  
क्षेत्रीय अधिकारी (प्र0)

**Pending OA No.-537 / 2022 Mukesh Kumar Chauhan vs. State of U.P. in Hon'ble National Green Tribunal, New Delhi. The inspection of the complaint site was done on 10.11.2022 by the joint committee formed in compliance of the order dated 05.09.2022 passed in Inspection report with reference to the reply received after the inspections.**

Regarding the above subject, M/ s J.K. Cement Ltd. Village Satha, Kasimpur Road, Tehsil- Coil, District Aligarh, M/ s Mangalam Cement, CDF Complex, Cherath, Anupsahar Road, Tehsil- Col, District Aligarh, M/ s Vision Next Road Line, Village- Satha, Kasimpur Road, Tehsil- Koil, District Aligarh and M/ s P&P Exim Pvt. Ltd, Sutmil Chauraha, District Aligarh, through this office's letter no.- 2256 dated 14.12.2022 along with the joint inspection report dated 10.11.2022 Sent attached. M/ s J.K. Cement Ltd. Village Satha, Kasimpur Road, Tehsil- Koil, District Aligarh and M/ s Vision Next Road Line, Village- Satha, Kasimpur Road, Tehsil- Koil, District Aligarh in their reply office dated 27.12.2022 and dated 05.01.2023 has been received. With reference to the reply received, the inspection of the referenced site was done by this office on 09.01.2023. At the time of inspection Mr. Upendra as a representative in M/ s Vision Next Road Line, Village- Satha, Kasimpur Road, Tehsil- Koil, District Aligarh. Shri Upendra Kumar, Director was present. The detailed inspection report is as follows-

1. At the time of inspection, the railway station was situated on the side line no. 0-14 of Harduaganj railway siding. Water sprinkling work was found to be done through 02 tankers in the loading/ unloading area.
2. At the time of inspection, two nos. of portable anti smoggun were found located at the loading/ unloading site and water sprinkling was found to be done by both of the anti smoggun. The representative present at the time of inspection was informed by Mr. Vision Next Road Line that Anti Smogon Machine has been purchased by the firm. Photocopy of tax invoice is attached.
3. At the time of inspection M/ s Vision Next Road Line No-132, S.S. Off GT Road, Industrial Area, Ghaziabad by Harduaganj Railway Station and Monitoring of ambient air quality of Village- Satha was done in both loading and unloading conditions. Is Photocopy is attached.
4. At the time of inspection, it is natural for dust/ dust to fly due to the railway siding of Harduaganj railway station and the road being unpaved for vehicular traffic. The representative present at the time of inspection was informed by M/ s Vision Next Road Line that work has to be done by the Railways to make the said road and railway siding .
5. Generated by the movement of vehicles and loading / unloading on Harduaganj railway siding at the time of inspection to control the fugitive dust, the eastern and western sides of the railway station were

covered from the boundary with a long temporary green net about 20 feet high 600 meters on both sides (Photograph attached).

- 6 Due to non- availability of goods train/ rack at the time of inspection, the work of unloading could not be done. Gone. But the loading work was going on. At the time of inspection, suitable PPE was not found to be used by the worker during loading.
- 7 At the time of inspection, pump set was found installed on the borewell located on the railway siding. From the said borewell no record has been presented regarding whether the permission for water exploitation has been obtained from the District Level Ground Water Authority, Aligarh or not.
- 8 It was informed by M/ s Vision Next Road Line, present at the time of inspection, that the said borewell located at Harduaganj railway siding belongs to the Railways. Railway must get the permission for water harvesting and M/s J.K. Cement Water tankers are brought from J K cement industry. The report is sent with respect for your perusal and further necessary action.

SD/  
(Upendra Prasad)  
Sr. Engineer

SD/-  
(Ajay Kumar)  
Addl. Environment Engineer

SD/-  
(Dr. J P Singh)  
Regional Officer  
UP PCB, Aligarh

J.K. Cement Report

  
TRUE COPY

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO. 537/2022**

**IN THE MATTER OF:**

Mukesh Kumar Chouhan

.... APPELLANT

VERSUS

State of U.P.

.... RESPONDENT

**VAKALATNAMA**

Know all to whom these presents shall come that I, R.S Paliwal for JK CEMENT  
\_\_\_\_\_, Respondent No. 5 in the above captioned case do hereby appoint

**SHLOK CHANDRA, AMAN KANT MISHRA, KESHAV GARG  
ADVOCATE  
A-22, GROUND FLOOR, DEFENCE COLONY,  
NEW DELHI-110024  
MOBILE NO 9999670588  
D/1056/2009**

Advocates, to be my/ our true and lawful attorney (s), in the matter noted above, to do all the following acts, deeds and things, or any of them, (jointly and severally) and also ratify anything already done on our behalf that is to say: -

1. To sign, verify and present and send notices, replies rejoinders, pleadings, appeals, cross-objections or petitions for execution, review, revision, other petitions or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the case or in relation thereto in all its stages.
2. To appear, act, and plead in the above-mentioned case in any court or tribunal etc, in which the same be heard or tried in the 1<sup>st</sup> instance or in appeal or review or revision or execution or in any other stage of its progress until its final decision.
3. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise to or in any manner relating to the said case.
4. To receive documents, papers, records, orders etc. and to do all other acts all things, which may be necessary or proper to be done for the progress and in all course of the prosecution of the said case.
5. To employ any other legal practitioner, advocate or consultant authorizing him to exercise the power and authority hereby conferred on the Advocate (s) whenever he/they may think fit to do so.

And I/We hereby agree that whatever the Advocate (s) or his/ there substitute shall do in the premises shall be binding on me in all intents and purposes just as if it would have been done by me.

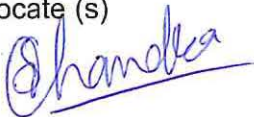
And I/We hereby agree not to hold the Advocate (s) or his/their substitute responsible for the said case in consequence of his absence from the court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/ us to be paid to the Advocate (s) remaining unpaid he/they shall be entitled to withdraw from the prosecution of the said case, or not to appear until the same is paid.

In witness whereof I/We hereunto set my/our hand to these presents the contents of which have been explained to and understood by me/us.

Date: 06<sup>th</sup> January 2023

Advocate (s)



Shlok Chandra  
D/1056/2009  
9999670588



Client(s)

