

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

Principal Bench, New Delhi

Original Application No. 67 /2019

With

Original Application No. 138/2019

In the Matter of: -

Sumit Kumar

Applicant

Vs.

State of Himachal Pradesh & Ors.

Respondent(s)

With

Amarjeet Kumar

Applicant

Vs.

Union of India & Ors.

Respondent(s)

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(Nazimuddin)

Scientist 'E'

Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi-110032

Place: Delhi

Date: 14.07.2020

Compliance Report on Hon'ble NGT order dated 28.03.2019 and 04.07.2019
in O.A. No. 67/2019 and O.A. No. 138/2019

(Updated Third Report, covering status as on 14.07.2020)

In compliance of Hon'ble NGT order dated 28.03.2019 and 04.07.2019 in O.A. No. 67/2019 and O.A. No. 138/2019, CPCB issued directions under Section 5 of the Environment (Protection) Act, 1986 to the Chief Secretaries/Administrators of States Governments/Union Territory Administrations vide letter dated 23.08.2019 (**Annexure-I**), directing as below:

1. State Government/Union Territory Administration shall formulate and enforce fuel policy regarding use of pet coke and FO in the State/UT in light of various orders passed by Supreme Court regarding use of pet coke and FO in Writ Petition (C) 13029/1985.
2. State Government/Union Territory Administration through respective SPCB/PCC shall take strict action against any industry if found violating the fuel policy on use of pet coke and FO that will be enforced as above, using the powers conferred under environmental laws.

State Governments/UT Administrations were asked to submit action taken report on above to CPCB through their SPCBs/PCCs within one month i.e. by 23.09.2019 and reminder e-mails were sent on 19.09.2019, 01.10.2019, 11.10.2019, 23.10.2019, 08.11.2019, 20.11.2019 and 27.12.2019. Based on the ATRs received from SPCBs/PCCs, CPCB submitted a report dated-03.01.2020 covering the status upto 31.12.2019. Hon'ble NGT considered the report and vide order dated-07.01.2020 further directed as follows:

“13 States which have still not furnished their respective ATRs in pursuance of direction of the CPCB dated 23.08.2019 may do so positively within one month. If there is non-compliance after 31.03.2020, the defaulting States will be liable to pay compensation at the rate Rs. 1 lakh per month from 01.04.2020 till compliance.”

CPCB vide e-mail/letter dt- 14.01.2020, 06.03.2020 and 20.03.2020 further informed SPCBs to submit action taken report. Eight more SPCBs have submitted action taken report on CPCB's directions. Thus, ATRs have been submitted by total 27 States/UTs on CPCB's direction dated 23.08.2019, whereas ATR from the remaining 05 States/UTs is awaited.

A summary of the ATR of 27 States/UTs, along with copies of ATRs is annexed at **Annexure-II**. List of 05 States/UTs which have to inform action taken on CPCB's directions is annexed at **Annexure-III**.

Filed on - 28/08/19

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD

एन.सी.पी.सी. बिल्डिंग, प्लॉट नंबर 1, कलकत्ता रोड, पश्चिमी बंगाल, भारत सरकार
NEW DELHI, THE ENVIRONMENT, FOREST & CLIMATE CHANGE, GOVT. OF INDIA

SPEED POST

B-33014/07/2019/IPC-II/ 5747-5778

August 23, 2019

To,

The Chief Secretary/Administrators,
Government of States/Union Territories
(As per list enclosed - 1)

Sub: Directions under Section 5 of the Environment (Protection) Act, 1986 regarding preparing a policy on use of Pet coke & Furnace oil.

WHEREAS, rising pollution is a matter of serious concern, especially high levels of particulate matter exceeding National ambient air quality standards, 2009; and

WHEREAS, pet coke and furnace oil / fuel oil (FO) emit more SO₂ as compared to other conventional fuels due to high sulphur content and also contribute to forming of finer secondary particulate matter in ambient air, which form a significant fractions of PM (PM₁₀ & PM_{2.5}); and

WHEREAS, Hon'ble Supreme Court of India passed vide dated 24.10.2017 in Writ Petition (Civil) 13029 / 1985, banned use of Pet coke and furnace oil in industries in the NCR state of Haryana, Uttar Pradesh and Rajasthan. Accordingly, Central Pollution Control Board at the behest of Government of India issued directions under Section 5 of the Environment (Protection) Act, 1986 to NCR state; and

WHEREAS, subsequently, Supreme Court passed Order dated 17.11.2017 in the above mentioned writ petition, noting that pollution caused by pet coke and furnace oil is not a problem confined only to the NCR but appears to be a problem faced by almost all the States and Union Territories in the country. Hon'ble Supreme Court requested all the State Governments and Union Territories to consider taking similar measures as have been taken by the Government of India and the Chairman of the Central Pollution Control Board (thereby referring to the above mentioned Directions issued by CPCB to state governments of NCR states for compliance of Supreme Court order dated 24.10.2017); and

WHEREAS, Hon'ble Supreme Court passed subsequent orders dated 13.12.2017, 05.02.2018, 26.07.2018, 09.10.2018 in the above writ petition; and

WHEREAS, Hon'ble Supreme Court in above mentioned order dated 09.10.2018 noted CPCB's report regarding use of pet coke as feed stock in CPC units wherein it was recommended that due to emission of SO₂ in high concentrations the emissions need to be treated in FGD systems having removal efficiency more than 90% and also noted that the views expressed by CPCB have been considered by MoEF&CC which is in agreement with the CPCB; and

WHEREAS, for filling response in cases O.A. No. 67 of 2019 Sumit Kumar Vs State of Himachal Pradesh & Ors. and O.A. No. 138 of 2019 Amarjeet Kumar Vs Union of India & Ors in Hon'ble National Green Tribunal, CPCB requested all states governments vide email dated 01.02.2019 to provide details of measures taken for banning use of pet coke and furnace oil in their state as suggested by the Hon'ble Supreme Court vide its order dated 17.11.2017; and

WHEREAS, Hon'ble National Green Tribunal passed Order dated 28.03.2019 in O.A. No. 67of 2019 and O.A. No. 138 of 2019, noting the brief on the above Supreme Court orders regarding pet coke and furnace oil provided by CPCB, and directing CPCB to issue appropriate directions in this regard to the concerned States and Union Territories indicating coercive measures against those who fail to comply with the directions; and

WHEREAS, Hon'ble National Green Tribunal passed further Order dated 04.07.2019 in above cases, directing CPCB again to proceed to take further action in the matter (as already directed by Order dated 28.03.2019); and

WHEREAS, the matter was discussed by CPCB with oil refinery representative on 20.05.2019 wherein it was informed that it is technically possible to produce low sulphur oil like slurry oil, LSHS, LDO by refineries and that if demand of FO is reduced, the refineries will have to convert it either into pet coke by installing cocker, or into bitumen by enhancing capacity of VBU which may require minimum one-year time, or will have to export it; and

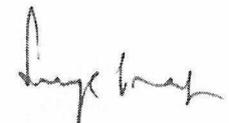
WHEREAS, as per notification no. S.O. 844 (E) dated 19th November 1986 under sub rule 3 of rule 3, the standards for emission or discharge of environmental pollutants specified under sub-rule (1) or sub-rule (2) shall be complied with by an industry, operation or process within a period of one year of being so specified; and

WHEREAS, Ministry of Environment & Forests, Government of India, vide Notifications No. S. O. 157 (E) of 27.02.1996 and S. O. 730 (E) dated 10.07.2002, has delegated the powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board, to issue directions to any industry or any local body or any other authority for violations of the standards and rules notified under the Environment (Protection) Rules, 1986 and amendment thereof.

NOW, THEREFORE, in view the above and in exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986, following directions are issued:

1. State Government / Union Territory Administration shall formulate and enforce fuel policy regarding use of pet coke and FO in the State/UT in light of various orders passed by Supreme Court regarding use of pet coke and FO in Writ Petition (C) 13029/1985.
2. State Government / Union Territory Administration through respective SPCB/PCC shall take strict action against any industry if found violating the fuel policy on use of pet coke and FO that will be enforced as above, using the powers conferred under environmental laws.

Action taken report shall be submitted through SPCB/PCC by State/UT within one month i.e. by 23.09.2019.

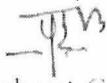


(S.P.S. Parihar)
Chairman



Copy to:

1. The Chairman
SPCBs / PCCs
(As per list enclosed - 2)
2. The Joint Secretary (CP Division)
Ministry of Environment, Forests and Climate Change
Prithvi Wing, 2nd Floor, Room No. 216
Indira Paryavaran Bhawan,
Aliganj, Jor Bagh Road, New Delhi - 110003
3. The Regional Directors
Central Pollution Control Board
(As per list enclosed - 3)
- ✓ 4. The Divisional Head - IT, CPCB


(Prashant Gargava)
Member Secretary

List - 1

List of Chief Secretaries/ Administrators of States/UTs

S. No.	State	Designation	Address
1	Andhra Pradesh	Chief Secretary	Government of Andhra Pradesh 1st Block, 1st Floor A.P Secretariat Office, Velagapudi - 522503
2	Arunachal Pradesh	Chief Secretary	Government of Arunachal Pradesh Civil Secretariat Itanagar - 791111
3	Assam	Chief Secretary	Government of Assam Block- C, 3rd Floor, Assam Sachivalaya Dispur - 781006, Guwahati
4	Bihar	Chief Secretary	Government of Bihar Main Secretariat, Patna - 800015
5	Chhattisgarh	Chief Secretary	Government of Chhattisgarh Mahanadi Bhawan, Mantralaya Naya Raipur - 492002
6	Goa	Chief Secretary	Government of Goa, Secretariat, Porviroim, Bardez, Goa - 403521
7	Gujarat	Chief Secretary	Government of Gujarat 1st Block, 5th Floor Sachivalaya, Gandhinagar - 382010
8	Himachal Pradesh	Chief Secretary	Government of Himachal Pradesh HP Secretariat, Shimla - 171002
9	Jammu & Kashmir	Chief Secretary	Government of Jammu & Kashmir R. No. 2/7, 2nd, Floor Main Building Civil Secretariat, Jammu - 180001 R. No. 307, 3rd Floor Civil Secretariat, Srinagar - 190001
10	Jharkhand	Chief Secretary	Government of Jharkhand 1st Floor, Project Building, Dhurwa, Ranchi- 834004
11	Karnataka	Chief Secretary	Government of Karnataka Room No. 320, 3rd Floor Vidhana Soudha, Bengaluru - 560 001
12	Kerala	Chief Secretary	Government of Kerala Secretariat, Thiruvananthapuram - 695001

13	Madhya Pradesh	Chief Secretary	Government of Madhya Pradesh MP Mantralaya, Vallabh Bhavan Bhopal - 462004
14	Maharashtra	Chief Secretary	Government of Maharashtra CS Office Main Building, Mantralaya 6th Floor, Madame Cama Road, Mumbai - 400032
15	Manipur	Chief Secretary	Government of Manipur, South Block, Old Secretariat Imphal-795001
16	Meghalaya	Chief Secretary	Government of Meghalaya Main Secretariat Building Rilang Building, Room No. 321 Meghalaya Secretariat, Shillong - 793001
17	Mizoram	Chief Secretary	Government of Mizoram New Secretariat Complex, Aizwal - 796001
18	Nagaland	Chief Secretary	Government of Nagaland Civil Secretariat, Kohima- 797004
19	Odisha	Chief Secretary	Government of Odisha General Administration Department Odisha Secretariat Bhubaneswar - 751001
20	Punjab	Chief Secretary	Government of Punjab Chandigarh - 160001
21	Sikkim	Chief Secretary	Government of Sikkim New Secretariat, Gangtok - 737101
22	Tamil Nadu	Chief Secretary	Government of Tamil Nadu Secretariat, Chennai - 600009
23	Telangana	Chief Secretary	Government of Telangana Block C, 3rd Floor, Telangana Secretariat Khairatabad, Hyderabad, Telangana
24	Tripura	Chief Secretary	Government of Tripura New Secretariat Complex Secretariat-799010, Agartala West Tripura

25	Uttarakhand	Chief Secretary	Government of Uttarakhand 4 Subhash Road, Uttarakhand Secretariat Dehradun - 248001
26	West Bengal	Chief Secretary	Government of West Bengal Nabanna, 13th Floor, 325, Sarat Chatterjee Road, Mandirtala Shibpur, Howrah - 711102
27	Union Territory Andaman and Nicobar	Chief Secretary	Andaman and Nicobar Administration Secretariat, Port Blair - 744101
28	Union Territory of Dadra and Nagar Haveli	Administrator	Secretariat, Moti, Silvassa, Daman - 396220
29	Union Territory of Daman & Diu	Administrator	Secretariat, Moti, Daman - 396 220
30	Union Territory of Lakshadweep	Administrator	Lakshadweep, Kavaratti - 682555
31	Union Territory of Puducherry	Chief Secretary	Chief Secretariat, Goubert Avenue, Puducherry - 605001
32	Union Territory of Chandigarh	Administrator	Punjab Raj Bhavan, Sector 6, Chandigarh - 160019, India

List 2: List of SPCBs/PCCs

1.	The Member Secretary Andhra Pradesh Pollution Control Board D. No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamalavari Street, Kasturibaipet, Vijayawada - 520 010	9.	The Member Secretary Gujarat Pollution Control Board Paryavaran Bhavan, Sector 10-A, Gandhi Nagar 382 010 , Gujarat
2.	The Member Secretary Arunachal Pradesh State Pollution Control Board Govt. of Arunachal Pradesh, Department of Environment & Forests, Paryavaran Bhawan, Yupia Road, Papu Nalah, Naharlagun - 791 110	10.	The Member Secretary Himachal Pradesh State Pollution Control Board Him Parivesh, Phase- III, New Shimla - 171 009
3.	The Member Secretary Pollution Control Board- Assam, Bamunimaidam, Guwahati - 781 021, Assam	11.	The Member Secretary (April- October) J&K State Pollution Control Board, Parivesh Bhawan, Shiekh-ul- Campus, Behind Govt. Silk Factory, Raj Bagh, Srinagar (J&K)
4.	The Member Secretary Bihar Bihar State Pollution Control Board Parivesh Bhawan, Plot No. NS-B/2, Paliputra Industrial Area, Patliputra, Patna - 800 023	12.	The Member Secretary Jharkhand State Pollution Control Board T.A. Bldg., HEC, P. O Dhurwa, Ranchi-834 004 (Jharkhand)
5.	The Member Secretary Chhattisgarh State Environment Conservation Board, Paryavas Bhawan, North Block Sector-19, Atal Nagar, Raipur - 492 002, Chhattisgarh	13.	The Member Secretary Karnataka State Pollution Control Board "Parisara Bhavan", #49,4th & 5th Floor, Church Street, Bangalore 560 001
6.	The Member Secretary Chandigarh Pollution Control Committee Paryavaran Bhawan, Ground Floor, Sector-19 B, Madhya Marg, Chandigarh - 160 019	14.	The Member Secretary Kerala State Pollution Control Board Head Office, Pattom. P. O Thiruvananthapuram - 695 004 Kerala
7.	The Member Secretary Pollution Control Committee, UTs of Daman, Diu and Dadra & Nagar Haveli Fort Area, Court Compound, Moti Daman - 396 220	15.	The Member Secretary Madhya Pradesh Pollution Control Board Paryavaran Parisar, E-5, Arera Colony Bhopal - 462 016 , Madhya Pradesh
8.	The Member Secretary, Goa State Pollution Control Board Nr. Pilerne Industrial Estate, Opp. Saligao Seminary, Saligao-Bardez Goa - 403511	16.	The Member Secretary Maharashtra Pollution Control Board, Kalpataru Points, 3rd & 4th Floor, Sion Matunga Scheme Road No.6 Opp. Cine Planet, Sion Circle, Sion (E), Mumbai-400 022

17.	The Member Secretary Manipur Pollution Control Board Lamphalpat, Imphal - 795 004, Manipur	25.	The Member Secretary Tripura State Pollution Control Board Parivesh Bhawan, Pandit Nehru Complex, P.O. Kunjaban, Gorkhabasti, Agartala - 799 006, Tripura
18.	The Member Secretary Meghalaya State Pollution Control Board, "ARDEN", Lumpynggad, Shillong - 793 014, Meghalaya	26.	The Member Secretary, Uttarakhand Environment Protection & Pollution Control Board, Gaura Devi Bhawan, 46 B IT Park Sahastradhara, Dehradun - 248 001, Uttarakhand
19.	The Member Secretary Mizoram Pollution Control Board New Secretariat Complex, Khatla, Aizawl - 796 001, Mizoram	27.	The Member Secretary Telangana State Pollution Control Board Paryavarana Bhawan, A-III, Industrial Estate, Sanathnagar, Hyderabad - 500 018
20.	The Member Secretary Nagaland Pollution Control Board Signal Point, Dimapur Nagaland	28.	The Member Secretary West Bengal Pollution Control Board Paribesh Bhawan, 10-A, Block LA, Sector III, Salt Lake City, Kolkata-700 091
21.	The Member Secretary Odisha State Pollution Control Board Paribesh Bhawan, A-118, Nilakantha Nagar Unit VIII Bhubaneswar - 751 012, Odisha	29.	The Member Secretary Puducherry Pollution Control Committee 'B' Block, Ground Floor, Chief Secretariat, Puducherry-605 001
22.	The Member Secretary Punjab Pollution Control Board Vatavaran Bhawan, Nabha Road Patiala 147 001, Punjab	30.	The Member Secretary Andaman & Nicobar Islands Pollution Control Committee, Department of Science & Technology, Dollygunj Van Sadan, Haddo P.O., Port Blair - 744102
23.	The Member Secretary Sikkim State Pollution Control Board State Land Use & Environment Cell Govt. of Sikkim, Deorali Gangtok - 737 102, Sikkim	31.	The Member Secretary Lakshadweep Pollution Control Committee, Department of Science, Technology & Environment, Kavarati- 682555
24.	The Member Secretary Tamil Nadu Pollution Control Board No. 76, Mount Salai, Guindy Chennai- 600 032 Tamilnadu		

List 3. List of RD's

1. The Regional Director
Central Pollution Control Board
1st & 2nd Floors, Nisarga Bhavan, A-Block,
Thimmaiah Main Road, 7th D Cross,
Shivanagar, Bengaluru -560 079
2. The Regional Director
Central Pollution Control Board
Southend Conclave, Block 502, 5th & 6th Floor
1582, Rajdanga Main Road
Kolkata - 700 107
3. The Regional Director
Central Pollution Control Board
4th Floor, Sahkar Bhawan,
North TT Nagar,
Bhopal - 462 003
4. The Regional Director
Central Pollution Control Board
Parivesh Bhawan, Opp. VMC Ward Office No. 10
Subhanpura, Vadodara - 390 023
5. The Regional Director
Central Pollution Control Board
PICUP Bhawan, Ground Floor
Vibhuti Khand, Gomti Nagar
Lucknow-226010
6. The Regional Director
Central Pollution Control Board
"TUM-SIR", Lower Motinagar
Near Fire Brigade H.Q.,
Shillong - 793 014

Annexure - II

Summary of the Action Taken by States/UTs in compliance to Directions Issued for
Preparing Policy on Use of Petcoke and Furnace Oil

Sl. No.	State/UT	Reply Dated	Action Taken by State Govt. / SPCB on CPCB's Directions
1.	Andhra Pradesh	23.03.2020	SPCB has informed vide e-mail dt.-23.03.2020 that: <ul style="list-style-type: none">• State Government vide G.O. Ms. No. 71 dt.-01.11.2017 has permitted the use of pet coke as an approved fuel subject to installation of required air pollution control systems by the industries using Pet Coke.• SPCB has framed policy for use of Pet Coke & Furnace Oil as Fuel on 13.03.2020.• Industries using petcoke and FO to install the scrubbing system to reduce SO2 load with minimum efficiency of 90%.
2.	Bihar	01.07.2020	BSPCB has informed vide letter dated-01.07.2020 that State Fuel Policy on use of Pet Coke and Furnace oil is notified on 29.06.2020 by Department of Environment, Forest and Climate Change, Govt. of Bihar.
3.	Chhattisgarh	15.10.2019	Office order and notification issued on 17.07.2017 and 14.08.2017 by SPCB and State Govt., respectively for banning use of petcoke in all industries except for Cement Plants which have been permitted subject to specific conditions formulated by CECB. Further, use of FO is not prohibited presently and necessary decision will be taken this regard in future as per requirement.
4.	Goa	20.05.2020	SPCB has vide letter dt.-20.05.2020 has informed that SPCB vide circular dated-18.03.2020 notified the approved fuels in the State.
5.	Gujarat	22.06.2020	A Committee constituted by Gujarat SPCB recommended that use of pet coke as fuel may be permitted only in glass and cement sectors. On the basis of this the SPCB published amended notification dated 12.12.2019 (to amend the original notification dated 26.10.2017 as amended on 06.02.2018)
6.	Himachal Pradesh	03.10.2019	Draft fuel policy has been formulated by State Govt. and will be finalized after Bye-Election Model Code of Conduct on getting approval of the Council of Ministers.
7.	Jammu & Kashmir	15.05.2020	Industries & Commerce Department, Govt. of J&K, vide letter 15.05.2020 informed that the Draft J&K Pet Coke and Furnace Oil Policy is submitted to J&K PCB for necessary action.

			is allowed in regulated conditions with emission standards for Sulphur Dioxide at 400 mf/Nm ³ and with CTO by SPCB.
17.	Sikkim	29.09.2019	Notification issued on 22.03.2018 for prohibiting sale and use of petcoke and FO as fuel in the State.
18.	Tamil Nadu	20.09.2019	SPCB has informed vide letter dt. 20.09.2019 that: 1. Cement Plant is only permitted to use petcoke as fuel in their Cement Kiln after examining case by case and all other industrial units which have used petcoke as fuel are stopped as per TNPCB directions issued during Sept 2017. 2. There is no restriction on use of FO by the industries. 3. Cement Industries which are using petcoke and the industries using FO should comply with prescribed emission standards.
19.	Telangana	09.10.2019	SPCB has informed that State Govt. has decided that petcoke as fuel does not require to be prohibited in the State subject to installation of air pollution control system by and compliance of emission norms. As of now, TSPCB has permitted only Cement Plants for use of petcoke while issuing CFO & HWA.
20.	Tripura	07.09.2019	Notification issued on 01.03.2018 for complete ban and prohibition on the use of petcoke and FO.
21.	Uttarakhand	23.03.2020	SPCB has informed vide e-mail dated-23.03.2020 that Draft Fuel Policy is prepared and is under approval of Chairman, PCB.
22.	UT of Andaman and Nicobar	04.10.2019	None of the industry is using petcoke and FO in the UT.
23.	UT of Chandigarh	25.10.2019	None of the industry is using petcoke. The policy regarding FO is under consideration that no industry will be allowed to use FO after 06 months.
24.	UT of Daman & Diu	14.10.2019	None of the industries permitted to use petcoke. Use of FO is permitted subject to compliance of 30 meters stack height criteria and industry equipped with APCDs for control of emission.
25.	UT of Dadra and Nagar Haveli		
26.	UT of Lakshadweep	22.11.2019	None of the industry is using petcoke and FO in the UT.
27.	UT of Puducherry	02.12.2019	Puducherry PCC has informed vide letter dt. 02.12.2019 that Draft fuel policy has been prepared and submitted to the Government for approval.

8.	Karnataka	31.12.2019	Draft fuel policy has been formulated by State Govt. and draft policy is under process of finalization/notification.
9.	Kerala	30.10.2019	KSPCB has informed vide letter dt. 30.10.2019 that Draft fuel policy regarding use of petcoke and FO as fuel has been prepared and submitted to the State Govt. for issuing notification.
10.	Madhya Pradesh	28.09.2019	Order has been issued on 17.07.2017 by State Govt. to allow use of petcoke only after obtaining Consent from MPPCB. MPPCB can allow use of petcoke on case to case basis after proper examination of control equipment installed for control of emission of SO ₂ and other pollutants. Same policy will be adopted in case of use of FO also.
11.	Maharashtra	05.02.2020	SPCB has informed vide letter dated-05.02.2020 that: <ul style="list-style-type: none"> • Fuel policy regarding use of petcoke and furnace oil has been framed with list of approved fuels and timelines for compliance of fuel policy. • Petcoke is allowed in Cement Plant/Lime Kiln, Calcium carbide and Gasification use. • Furnace Oil is allowed in units with conditions of 90 % scrubbing and removal of SO₂.
12.	Manipur	20.09.2019	Manipur SPCB has informed vide letter dt. 20.09.2019 that none of the industry is using petcoke and FO in the State and therefore the policy regarding use of petcoke and FO may not be required.
13.	Meghalaya	25.11.2019	Meghalaya SPCB has informed vide letter dt. 25.11.2019 that Draft fuel policy has been submitted to the Secretary, Forests & Environment Department, Govt. of Meghalaya for necessary action.
14.	Mizoram	18.10.2019	Mizoram SPCB has informed vide letter dt. 18.10.2019 that neither petcoke nor FO is in use in the State. State Govt. is considering relevant information for formulation of policy on use of petcoke and FO.
15.	Nagaland	11.10.2019	Nagaland SPCB has informed vide letter dt. 11.10.2019 that Nagaland does not have any plants or industries where fuel grade pet coke is used. Further, Dept. of Industries & Commerce, Nagaland has been asked to prepare a policy on the same.
16.	Punjab	19.03.2020	SPCB has informed vide letter dated-19.03.2020 that: <ul style="list-style-type: none"> • Draft notification for regulating the use of petcoke and furnace oil is submitted to State Government for issuance of notification. • The use of pet coke and furnace oil and other liquid

List of States/UTs which have to inform Action Taken on CPCB's Directions Issued for
Preparing Policy on Use of Petcoke and Furnace Oil

States

1. Arunachal Pradesh
2. Assam
3. Jharkhand
4. Odisha
5. West Bengal

Item Nos.09&10

Court No. 1

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

Original Application No. 67/2019
(I.A. No. 32/2019)

WITH

Original Application No. 138/2019
(I.A. No. 65/2019)

Sumit Kumar

Applicant(s)

Versus

State of Himachal Pradesh & Ors.

Respondent(s)

With

Amarjeet Kumar

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 28.03.2019

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

For Applicant(s): Mr. Arvind Nayar, Senior Advocate, Mr. Soumik Ghosal, Mr. Gaurav Singh, Dr. Sandeep Singh and Mr. Vinay Pal, Advocates

For Respondent (s): Mr. Sharat Kapoor and Ms. Salonee Agarwal, Advocates for SAIL.
Mr. Alokke Aggarwal, Ms. Anushruti Kushagra, Ms. Kritika Singh and Ms. Rachita, Advocates for respondent no. 11
Mr. Sanjay Kumar, Advocate for HPSPCB

ORDER

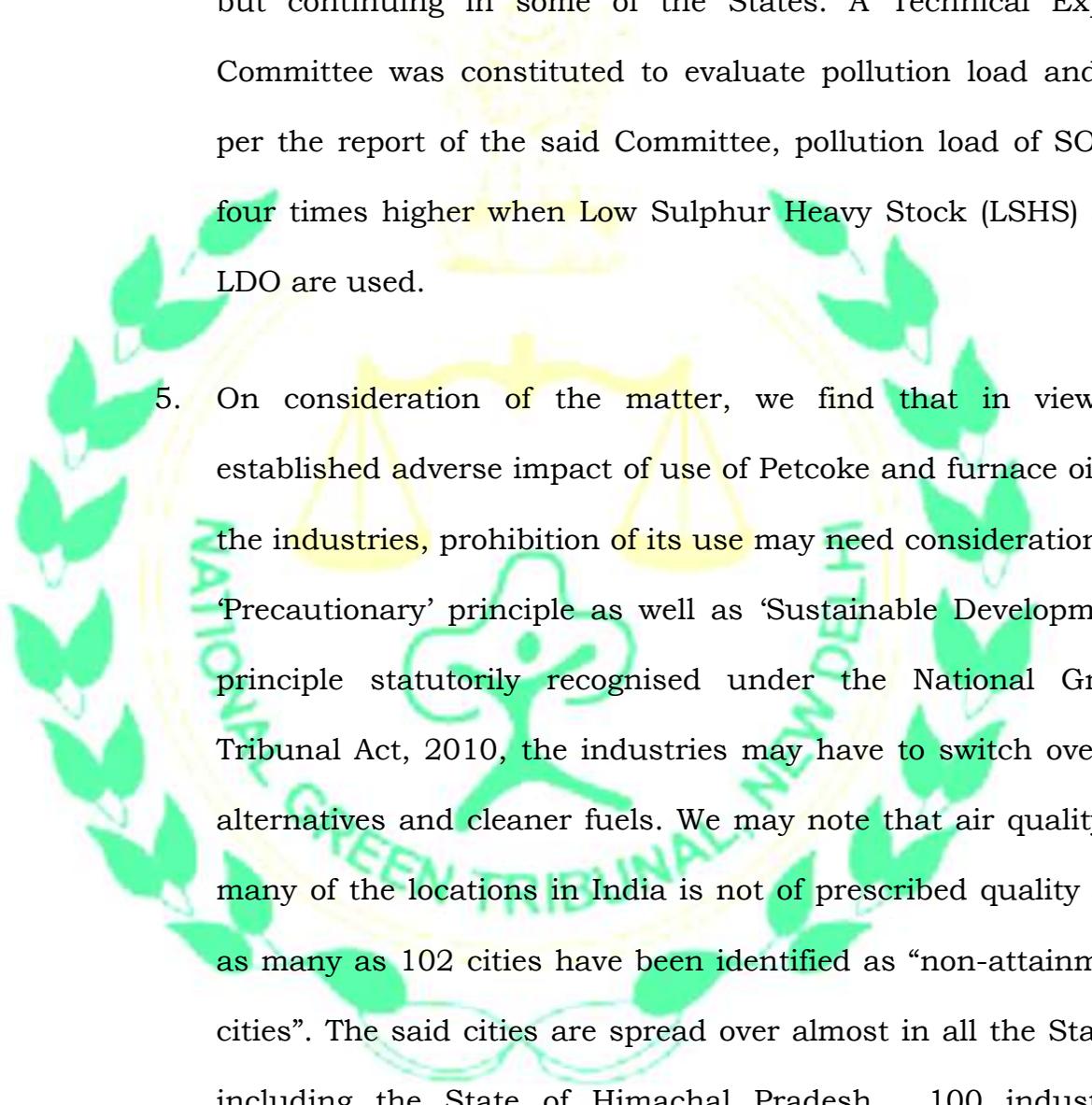
1. The issue for consideration is prohibiting use of Petcoke and furnace oil as fuel. Prayer of the applicant is to issue direction

to the Steel Processing Unit of the Steel Authority of India in the State of Himachal Pradesh in the light of order of the Hon'ble Supreme Court dated 17.11.2017 in W.P No. 13029/1985 in M.C Mehta v. Union of India.

2. Vide order dated 15.01.2019, this Tribunal sought a response from the Central Pollution Control Board (CPCB) and the Himachal Pradesh Pollution Control Board (HPPCB).

3. Accordingly, the response has been received vide e-mail dated 15.02.2019 from the CPCB. The conclusion therein is as follows:

“Considering the various directions and orders of Hon'ble Supreme Court regarding use of petcoke and furnace oil containing higher sulphur, it is required that States and UTs, including Himachal Pradesh, formulate fuel policies regarding use of petcoke and FO in light of Hon'ble Supreme Court order dated 24.10.2017 (banning use of petcoke and FO in NCR States) and 17.11.2017 (suggesting States/UTs to take similar measures) and further Hon'ble Supreme Court order dated 13.12.2017, 05.02.2018 and 26.07.2017 allowing use of petcoke in industries/processes which use petcoke and furnace oil either as feed stock (Calcined Pet Coke (CPC) units, Aluminum industries) or where they get absorbed along with product in manufacturing process (cement, Lime Kiln, calcium carbide industries). It is relevant to mention that use of Raw Petroleum Coke (RPC) in CPC units has been allowed with condition of 90% recovery of SO₂ emission. The same principal may be followed in industrial processes where use of FO as feed stock is considered by States/UTs.”

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4. The reason for the above conclusion is huge emission of SO₂ and other pollutants on account of use of Petcoke and furnace oil by the industries which has been banned in several States but continuing in some of the States. A Technical Expert Committee was constituted to evaluate pollution load and as per the report of the said Committee, pollution load of SO₂ is four times higher when Low Sulphur Heavy Stock (LSHS) and LDO are used.
 5. On consideration of the matter, we find that in view of established adverse impact of use of Petcoke and furnace oil by the industries, prohibition of its use may need consideration on 'Precautionary' principle as well as 'Sustainable Development' principle statutorily recognised under the National Green Tribunal Act, 2010, the industries may have to switch over to alternatives and cleaner fuels. We may note that air quality in many of the locations in India is not of prescribed quality and as many as 102 cities have been identified as "non-attainment cities". The said cities are spread over almost in all the States, including the State of Himachal Pradesh. 100 industrial clusters are declared critically polluted throughout India. This makes it imperative that any measure which is helpful in controlling air pollution must be preferred to the extent viable. These aspects have been considered by the Tribunal in order dated 08.10.2018 in O.A No. 681 of 2018 in News item published in "The Times of India" Authored by Shri Vishwa

Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15" and order dated 13.12.2018 in Original Application No. 1038/2018 in News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" respectively.

6. In view of the above, we accept the report of the CPCB and direct that the same may be given effect to. The CPCB may issue appropriate directions in this regard to the concerned States and Union Territories indicating coercive measures against those who fail to comply with the directions. Response of the States be taken and compiled within two months and further action proposed by way of a report to this Tribunal before the next date.

List for further consideration on July 4, 2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

March 28, 2019
Original Application No. 67/2019
(I.A. No. 32/2019)
With Original Application No. 138/2019
(I.A. No. 65/2019)
AK



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

Original Application No. 67/2019

(I.A. No. 32/2019)

WITH

Original Application No. 138/2019

(I.A. No. 65/2019)

Sumit Kumar

Applicant(s)

Versus

State of Himachal Pradesh & Ors.

Respondent(s)

WITH

Amarjeet Kumar

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

(I.A. No. 32/2019 for stay and I.A. No. 65/2019 for stay)

Date of hearing: 04.07.2019

CORAM:

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

For Applicant(s):

Mr. Arvind Nayar, Senior Advocate with Mr.
Soumik Ghoshal, Advocate
Dr. Sandeep Singh, Advocate

For Respondent (s):

Mr. Alok Kumar Aggarwal, Mr. Panni Poddar,
Advocates for R-11
Mr. Rajkumar, Advocate for CPCB
Mr. Sharat Kapoor, Advocate for SAIL
Mr. Sanjay Kumar and Ms. Kalpana Devi,
Advocates for R-5

ORDER

1. The issue for consideration is the steps to be taken for controlling the use of Pet-coke and furnace oil as fuel. The matter was dealt with vide order dated 28.03.2019 in the light of the Report of the Central Pollution Control Board (CPCB) dated 15.02.2019 to the effect that use of Pet coke and furnace oil can be allowed only in

industries/processes either as feed stock (Calcined Pet-Coke (CPC) units, Aluminum industries) or where they get absorbed along with product in manufacturing process (cement, Lime Kiln, calcium carbide industries). Raw Petroleum Coke (RPC) in CPC units can be allowed with condition of 90% recovery of SO₂ emission.

2. The objection to the use of Pet coke and furnace oil, which has already been banned in certain States, is causing of huge emission of SO₂ and other pollutants. The pollution load of SO₂ is four times higher when Low Sulphur Heavy Stock (LSHS) and LDO are used.
3. Accordingly, the Tribunal directed the CPCB to take further measures for enforcing the above directions and to give a report to the Tribunal.
4. The report of the CPCB dated 28.06.2019 is as follows:

“MoEF&CC has replied to CPCB vide letter dated 14.06.2019 that as per Supreme Court orders use and sale of Pet-coke and furnace oil is banned in Delhi and NCR states with exemption granted for certain industries and import of Pet-coke across the country is also restricted to the specified industries, and that in reference to the other areas that are outside NCR states, the Ministry is in the process of consultation with State Government and other stakeholders, as mentioned in Supreme Court order dated 27.11.2018 – “discussion are being held in a consultative manner with regard to import of pet-coke. During the consultation process, the Union of India, Ministry of Environment, Forest and Climate Change and Ministry of Commerce and Industry should consider limiting the use of Pet-coke to industries as per letter issued by the Directorate General of Foreign Trade to the EPCA.”

Submissions:

In view of the above, it is prayed that MoEF&CC may also be heard in the matter considering the consultations being held by the MoEF&CC with States in light of the proceedings in Writ Petition (Civil) No. 13029 of 1985 in the Hon’ble Supreme Court, and thereafter Hon’ble NGT may be pleased to pass orders as appropriate, which shall be abided by the CPCB.”

5. We do not find it necessary to hear the Ministry of Environment, Forest and Climate Change (MoEF&CC). MoEF&CC is free to hold discussions on the subject of limiting the use of Pet-cock as per letter of the DGFT and as per the orders of the Hon'ble Supreme Court. Subject to that, the CPCB may proceed to take further action in the matter. The Pet-coke and furnace oil may not be allowed except in terms of the Report of the CPCB dated 15.02.2019 as follows:



“Considering the various directions and orders of Hon’ble Supreme Court regarding use of Pet-coke and furnace oil containing higher sulphur, it is required that States and UTs, including Himachal Pradesh, formulate fuel policies regarding use of Pet-coke and FO in light of Hon’ble Supreme Court order dated 24.10.2017 (banning use of Pet-coke and FO in NCR States) and 17.11.2017 (suggesting States/UTs to take similar measures) and further Hon’ble Supreme Court order dated 13.12.2017, 05.02.2018 and 26.07.2017 allowing use of Pet-coke in industries/processes which use Pet-coke and furnace oil either as feed stock (Calcined Pet Coke (CPC) units, Aluminum industries) or where they get absorbed along with product in manufacturing process (cement, Lime Kiln, calcium carbide industries). It is relevant to mention that use of Raw Petroleum Coke (RPC) in CPC units has been allowed with condition of 90% recovery of SO₂ emission. The same principle may be followed in industrial processes where use of FO as feed stock is considered by States/UTs.”

6. Further report in the matter be furnished by the CPCB after three months by e-mail at judicial-ngt@gov.in.

The application will otherwise stand disposed of.

List for consideration of the report on 06.11.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 04, 2019
Original Application No. 67/2019
WITH
Original Application No. 138/2019
DV

