

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

Principal Bench, New Delhi

Original Application No. 226/2020

(Earlier O.A. 68/2020(CZ))

Om Puri

Applicant

Vs.

Hindustan Zinc Ltd. & Ors.

Respondent(s)

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1.	Report of the CPCB on the stand of M/s Hindustan Zinc Ltd. over the report of the Joint Committee in compliance to Hon'ble NGT order dated 05.02.2021 in O.A. No. 226/2020 (Earlier O.A.68/2020 (CZ)), Om Puri Vs. Hindustan Zinc Ltd. & Ors.	
2.	Annexure-I: A copy of Hon'ble NGT order dated 05.02.2021.	

(Nazimuddin)

Scientist E

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

Date: 14.12.2021

Place: Delhi

Report of the CPCB on the stand of M/s HZL over the report of the Joint Committee
(in compliance of Order dated 05.02.2021 in O.A. 226 of 2020 Om Puri Versus Hindustan Zinc Ltd.)

1. Directions of Hon'ble NGT in Order dated 05.02.2021 in O.A. 226 of 2020

“7. A factual report in the matter about compliance of norms by respondent No.1 be furnished as earlier directed vide order dated 18.08.2020 with the modification that the joint Committee will comprise of seven members i.e. the Collector Bhilwada, Rajasthan State PCB, nominee of Indian Institute of Mines, Dhanbad, CPCB, CSIR-CIMFR, Chhattisgarh, Bilaspur, CSIR-CBRI Roorkee and IIT Roorkee. The nodal agency for compliance and coordination will be the CPCB. The State PCB may provide logistics for functioning of the Committee.

The Committee may undertake visit to the affected area at least once and except for such visit, it will be free to conduct other proceedings as per its convenience, by video conferencing or otherwise. The Committee may also conduct public hearing in the area, if necessary. This direction is being issued so that this Tribunal may simultaneously adjudicate upon all connected matters and for this purpose O.A. Nos. 49 to 53 of 2020 (CZ), 54 to 62 of 2020 (CZ) and 69 of 2020 (CZ) and any other connected matter raising the same issue in respect of the same mining lease will stand transferred to the Principal Bench for being considered along with the present matter.

The Committee may also assess the monetary value of damage to the environment caused, if any, in the last three years. The Committee will be at liberty to co-opt any other expert or institution.

It is made clear that the Tribunal may consider the quantum of compensation in the light of report of the Committee and response of the Company thereto, depending on the actual damage caused to the individual victims and to the environment, irrespective of the claim of the applicants.

Based on the observations of the independent Committee, it will be open to the statutory authorities to take remedial action, following due process of law.

The Committee may give its report within three months. A copy thereof may also be furnished to the respondent No. 1 Company for its response along with further action taken, if any, within three weeks from the receipt of the report, with advance copy to the CPCB, which may file supplementary report, if necessary, after cross checking the stand of the Company, within two weeks thereafter.

The report or response thereto be filed by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

2. Comments of CPCB on the response of the Unit over the report of Joint Committee

CPCB agrees with the recommendations of the Joint Committee. Point wise comments on the response of M/s Hindustan Zinc Limited (Rampura Agucha Mines), District Bhilwara (Rajasthan) are tabulated below:

S.No.	Recommendations of the Joint Committee	Response of M/s Hindustan Zinc Limited over the report of Joint Committee	Comment of CPCB on the stand of the Unit
1.	A monetary value of Rs. 90,00,000/- (Ninety Lacs Rupees) against violating the Environmental Clearance, 2009 specific condition no. xvi for plantation may be imposed on the unit.	<ul style="list-style-type: none"> - It is respectfully submitted that the number of plantations of 1000 plants per hectare ought not to be treated as violation of the EC condition. - The density of 1500 plants per hectare is an approximate density and not a violation so as to attract a penalty. EC Of 2009 stipulates a density of around 1500 plants. - The unit will also increase the plantation to ensure that the condition stipulated in the EC is fully satisfied. 	<p>The unit has not contradicted the committee observation about inadequate compliance of Environmental Clearance condition related to plantation.</p> <p>Therefore, the recommendation of the committee about informing penalty towards environmental compliance may be accepted.</p>
2.	To increase the plantation as per the EC condition stipulated under condition no. xvi of EC, 2009.	<ul style="list-style-type: none"> - MoEF&CC has been given power to determine violation of EC conditions and the action, if any, that ought to be taken against the Unit under the statutory scheme. - The Unit has regularly furnished the status of plantations in their six-monthly compliance report. Also, received an amendment in EC in February 2020 from MoEF&CC. - As per NGT order, the Joint committee was to assess the monetary value of damage to the environment. - The unit has achieved substantial compliance with EC condition and is committed to ensure a density of 1500 plants per hectare. In view of above, the penalty of Rs. 90 lakhs ought not to be imposed on the Unit. 	
3.	Unit need to carry out the hydrogeological survey of the surrounding area to map the current groundwater flow	<ul style="list-style-type: none"> - The nearest pit formation is at a distance of 3 kms, from the mining lease boundary. There are agricultural lands between the mining lease boundary and the said pit, where there are no pit formations. 	<p>The committee recommendation for hydrogeological survey study of the surrounding area to assess the impact of mining on groundwater flow regime including seasonal dynamics</p>

	<p>regime and its seasonal dynamics for identifying the cause of pit formation in the surrounding areas.</p>	<ul style="list-style-type: none"> - In view of the distance between the mining lease boundary and the pit, it is unlikely that the pit formation is on account of any activity attributable to the Unit. - Report of CIMFR, CSIR, Dhanbad, concluded that subsidence and magnitudes are much lower than the safe limits for causing any significant impact, including on any surface structures. Report submitted to MoEF&CC. - Pit formation in lands at a distance of 3 kms, is not attributable to the Unit's operations. 	<p>may be complied by the unit to scientifically prove its claim about no impact.</p>
4.	<p>Unit need to carry out isotopic analysis of surface and groundwater samples of the area to establish the sound linkages between the possible sub-surface pollutants and the industrial activities of the area.</p>	<ul style="list-style-type: none"> - The Joint Committee has relied on the NEERI Report of 2016 and its conclusion that the high values of TDS, Chlorides, sulphate and sodium observed in the groundwater both upstream and downstream of tailing dam is attributable to the geological and hydrogeological set up of the area. - It is submitted that the hydrogeological conditions have remained the same and would not materially change within the last five years. - The groundwater quality in villages at a distance of around 10 kms, is attributable to the geological and hydrogeological set up of the area. - Ground water samples (04 locations on 12.07.2021) analysis with PHED analysis does show any wide variations. - None of the villages mentioned in para 3.1 are downstream to the Unit and therefore, there cannot be any impact on groundwater quality on account of the Unit's operations. 	<p>The committee recommendation for isotopic analysis of surface and groundwater samples may be complied by the unit to assess the impact of mining on water quality and scientifically prove its claim about no impact.</p> <p>Further, renewal of NOC from CGWA, which is applied vide letter dt.-04.04.2018, may be ensured by the unit.</p>

		<ul style="list-style-type: none"> - The quality of ground water is not affected by the activities of the HZL is clear from the table giving the results of water sampling from nine locations within the lease area over the period 2014 to 2020. - Based on committee's findings on groundwater quality, it is not at all likely that the operations of Unit would affect the groundwater quality in villages in radius of 10 kms. 	
5.	The unit ensure de-siltation of the tailing dam garland drain regularly to avoid any overflow and seepages towards North direction of the tailing dam	<ul style="list-style-type: none"> - Lined garland drains have been constructed at the toe of the tailing dam and waste dump to collect and channelize for re-use all the water, including rain water. - The garland drains are connected with collection sumps and suitable pumping arrangements are made to pump the water. - All the garland drains are inspected regularly. - Provisions are kept in annual civil maintenance contracts for any correction that is deemed necessary, including de-siltation of garland drain. - Work order dt.-15.06.2019 issued towards the annual civil maintenance contract. 	<p>The unit has agreed to comply with the committee recommendation for de-siltation of tailing dam garland drain.</p> <p>The unit to ensure regular cleaning of garland drains so that any overflow does not occur from the tailing dam.</p> <p>Further, inspection of tailing dam may be carried out regularly through experts to ensure structural stability.</p>
6.	To increase the number of water sprinklers to curtail the fugitive emission at crusher area, haul road & others.	<ul style="list-style-type: none"> - The unit has implemented the environment management plan like dust suppression and extraction systems, which is evident from Ambient Air Quality of area. - The unit has adopted dust suppressing bio-chemicals in the water used for sprinkling to make suppression more effective. - The unit will further explore and install water sprinklers / suppression system wherever 	<p>The unit has indicated to comply the recommendation of committee as it has assured to explore further water sprinklers / suppression system wherever needed.</p> <p>This must be done in a time bound manner and plan / schedule be submitted to SPCB.</p>

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Item No. 04

Court No. 1

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

Original Application No. 226/2020
(Earlier O.A.68/2020(CZ))
(I.A. No. 94/2020 & I.A. No. 95/2020)

Om Puri

Applicant

Versus

Hindustan Zinc Ltd. & Ors.

Respondent(s)

Date of hearing: 05.02.2021

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

Applicant: Mr. Dharamveer Sharma, Advocate

Respondent(s): Mr. Krishnan Venugopal, Senior Advocate with Mr. U.N. Tiwary,
Advocate for Hindustan Zinc Ltd.
Ms. Sapna Aggarwal, Advocate for MoEF&CC
Mr. Rohit Sharma, Advocate for RSPCB
Mr. OM Shankar Shrivastava for Indian Bureau of Mines

ORDER

1. This application has been filed with a grievance of violation of environmental norms by Hindustan Zinc Ltd., Udaipur, Rajasthan in executing a mining lease of Lead, Zinc and associated minerals at villages Agucha, Rampura, etc., Tehsil Hurd, District Bhilwada, Rajasthan covering nearly an area about 1200 hectares of mining land. In course of such mining residents of the said villages are adversely affecting on account of degradation of environment. There is heavy blasting and underground mining operations resulting in contamination of source of drinking of water, resulting in various diseases like Asthma and skin borne diseases. Live stocks are also affected. Dust and stone get accumulated close to the agricultural land and houses of the inhabitants. Toxic and contaminated waste water is discharged from the

mines. The area is 'over exploited' in terms of the ground water, notified as such by the CGWB. There are mammoth holes at many places because of unplanned underground mining. The applicant has relied upon photographs filed with the application. The applicants have assessed the damage in terms of money at Rs. 3.70 Lakhs. Atleast 15 other similar applications have been filed by the affected villagers being O.A. Nos. 49 to 53 of 2020 (CZ), 54 to 62 of 2020 (CZ) and 69 of 2020 (CZ).

2. The application was first taken up for hearing on 18.08.2020. The Tribunal issued notice and also sought an independent report from a joint Committee comprising Collector, Bhilwada and the State PCB, the State PCB being the nodal agency.

3. The respondent No. 1 mining Company has filed I.A. Nos. 94/2020 and 95/2020 to seek recall of order dated 18.8.2020 with regard to seeking an independent report from a joint Committee on the ground that this Tribunal has no jurisdiction to seek such a report without hearing the said Company. The said applications were heard on 16.09.2020 and directed to be considered further after the response to the application was filed by the opposite party.

4. Accordingly, we have taken up the matter for further consideration.

5. We have heard Shri Krishnan Venugopal, learned Senior Advocate for respondent No.1 in support of the above I.A.s He submitted that several such applications were earlier filed and disposed of by this Tribunal vide order dated 12.05.2016 in O.A. Nos. 128/2014 & 129/2014, *Raghu Nath v. Hindustan Zinc Ltd. & Ors.* On consideration of compliance report filed on 16.11.2014 about the remedial measures to

reduce the fugitive dust emissions, maintaining quality of drinking water and to improving environment, the Tribunal directed the Company to contain the dust and improve the air quality. The State PCB was required to quarterly monitor the ambient air quality and also to maintain the quality of water being supplied. The respondent No. 1 has denied that any damage was being caused to the environment and has mentioned the CSR activities for mitigation measures.

6. We find the IAs to be without any merit and lacking in bonafides. If five years back some grievance was considered does not mean that such grievance can never be considered later, particularly when environmentally hazardous activities are carried out. We fail to see how mere self-serving denial of an alleged violator can be a ground not to go into the matter. It is difficult to understand how seeking an independent report by this Tribunal should be objected to if the company is complying with the norms. Such applications are thus clearly devoid of bonafides, apart from being without any legal basis. The inherent power of this Tribunal to appoint such a Committee and obtaining an independent report under Rule 24 of the National Green Tribunal (Practices and Procedure) Rules, 2011 is no longer *res integra* in view of categorical judgment of the Hon'ble Supreme Court on the subject being *State of Meghalaya v. All Dimasa Students Union, Dima-Hasao District Committee v. Ors.*¹.

7. A factual report in the matter about compliance of norms by respondent No.1 be furnished as earlier directed vide order dated 18.08.2020 with the modification that the joint Committee will comprise of seven members i.e. the Collector Bhilwada, Rajasthan State PCB,

¹ (2019) 8 SCC 177, Paras 156 to 166

nominee of Indian Institute of Mines, Dhanbad, CPCB, CSIR-CIMFR, Chhattisgarh, Bilaspur, CSIR-CBRI Roorkee and IIT Roorkee. The nodal agency for compliance and coordination will be the CPCB. The State PCB may provide logistics for functioning of the Committee. The Committee may undertake visit to the affected area atleast once and except for such visit, it will be free to conduct other proceedings as per its convenience, by video conferencing or otherwise. The Committee may also conduct public hearing in the area, if necessary. This direction is being issued so that this Tribunal may simultaneously adjudicate upon all connected matters and for this purpose O.A. Nos. 49 to 53 of 2020 (CZ), 54 to 62 of 2020 (CZ) and 69 of 2020 (CZ) and any other connected matter raising the same issue in respect of the same mining lease will stand transferred to the Principal Bench for being considered alongwith the present matter. The Committee may also assess the monetary value of damage to the environment caused, if any, in the last three years. The Committee will be at liberty to co-opt any other expert or institution. It is made clear that the Tribunal may consider the quantum of compensation in the light of report of the Committee and response of the Company thereto, depending on the actual damage caused to the individual victims and to the environment, irrespective of the claim of the applicants. Based on the observations of the independent Committee, it will be open to the statutory authorities to take remedial action, following due process of law. The Committee may give its report within three months. A copy thereof may also be furnished to the respondent No. 1 Company for its response alongwith further action taken, if any, within three weeks from the receipt of the report, with advance copy to the CPCB, which may file supplementary report, if necessary, after cross checking the stand of the Company, within two weeks thereafter. The report or response thereto be

filed by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

8. The applicant may furnish a set of papers to the CPCB and file an affidavit of service within one week.

I.A. Nos. 94/2020 and 95/2020 stand disposed of.

List for further consideration on 07.07.2021.

A copy of this order be forwarded to the CPCB, Collector Bhilwada, Rajasthan State PCB, Indian Institute of Mines, Dhanbad, CSIR-CIMFR, Chhattisgarh Bilaspur, CSIR-CBRI Roorkee and IIT Roorkee by e-mail for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

February 05, 2021
Original Application No. 226/2020
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