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PUNJAB POLLUTION CONTROL BOARD

Regional Office, Ferozepur Road, Near Dhara Singh Colony, St. No. 2, Faridkot
Email: ppcbfdk@yahoo.com

No. 5707

Dated 28/12/2019

To

The Consultant (Judicial),
Hon'ble National Green Tribunal,
New Delhi

Sub:- Status report in compliance of order dated 20.11.2019 of the Hon'ble National Green Tribunal, New Delhi in matter of O.A. no. 421 of 2019- Virendra Kumar v/s State of Punjab.

Ref: This office letter no. 5545 dated 11.12.2019.

In regard to above, please find attached status report in compliance of order dated 20.11.2019 of the Hon'ble National Green Tribunal, New Delhi in matter of O.A. no. 421 of 2019- Virendra Kumar v/s State of Punjab for kind perusal, consideration and appropriate orders of the Tribunal please.

DA/-as above

Sunjit Singh
Environmental Engineer
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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, NEW DELHI

Original Application No. 421 of 2019

In the matter of

Virendra Kumar

V/s

State of Punjab & Anrs.

Status report in compliance of order dated 20.11.2019 of this Hon'ble Tribunal through Environmental Engineer, Punjab Pollution Control Board, Regional Office, Faridkot.

RESPECTFULLY SHOWETH

1. That the Hon'ble National Green Tribunal has taken cognizance of a letter written by the applicant with regard to the illegal operation of brick kilns in Fazilka and Sri Muktsar Sahib District of Punjab and the said application was treated as Original Application No. 421 of 2019. The Hon'ble Tribunal was pleased to sought a report in the matter from the State Pollution Control Board by passing an order dated 2.7.2019.
2. That in compliance to the order dated 2.7.2019 passed by this Hon'ble Tribunal, a factual and action taken report on behalf of Punjab Pollution Control Board and District Magistrate, Fazilka was filed before this Hon'ble Tribunal via e-mail dated 19.8.2019.

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3. That after considering the report dated 19.8.2019 filed by the State Pollution Control Board and District Magistrate, Fazilka, the Hon'ble Tribunal has passed further dated 20.11.2019, thereby calling a report with regard to the present status of the operation of brick kilns without conversion and their impact on air quality.
4. That in order to comply with the order dated 20.11.2019 of the Hon'ble National Green Tribunal, all the Regional Offices of the Punjab Pollution Control Board were requested to provide the details regarding present status of operation of brick kilns presently operating without adopting zig-zag technology along with action taken against those brick kilns.
5. That as per the report received from all the Regional Offices of the Punjab Pollution Control Board, there are 2846 brick kilns located in the whole State of Punjab. Out of these, 1044 brick kilns have converted to induced draft zig-zag technology and 779 brick kilns have made Memorandum of Understanding (MoU) with induced draft zig-zag technology providers viz. M/s Punjab State Council for Science and Technology, Chandigarh, M/s Team Energy Systems, Greater Noida and M/s Pollution Consultants & Engineers, Faridabad and are under construction to induced draft zig zag technology. Remaining 1023 brick kilns have yet to respond to the directions issued for conversion of the conventional brick kilns to induced draft technology with zig-zag setting. Out of these 1023 brick kilns, 3 brick kilns were found in operation (Two in district Fazilka and one in district Sri Muktsar Sahib) pending conversion to induced draft technology with zig-zag setting after 30.09.2019 that is the date fixed by the State Government for conversion of conventional brick

Sunil Singh

kilns to induced draft technology with zig zag setting by issuing directions u/s 5 of the Environment (Protection) Act, 1986. Accordingly, the Board has taken requisite action against the said brick kilns by way of revoking of consent to operate granted to the brick kilns under the Air (Prevention & Control of Pollution) Act, 1981 and issuance of directions u/s 31-A of the Air (Prevention & Control of Pollution) Act, 1981 for closure of the brick kilns. The respective District Food & Civil Supplies Officers of the Department of Food, Civil Supplies & Consumer Affairs have also been directed to take necessary action. Status report of the State of Punjab is enclosed as **Annexure-A** for kind perusal.

6. That it is pertinent to mention here that some brick kilns of the State of Punjab have approached the Hon'ble Punjab & Haryana High Court by way of filing different Civil Writ Petitions i.e. Civil Writ Petition no. 22165 of 2019 titled as Vipan Kumar Rakesh Kumar & Others v/s Union of India along with other similar petitions viz. CWPs nos. 24000 of 2019, 26692 of 2019, 28508 of 2019, 29306 of 2019, 29407 of 2019, 30183 of 2019 and 31751 of 2019, all for quashing the order dated 28.05.2019 of the Government of Punjab, Department of Science, Technology and Environment whereby directions were issued to all the brick kilns in the State of Punjab to convert to induced draft technology with zig zag setting upto 30.9.2019.
7. That aforementioned Civil Writ Petition were heard by the Hon'ble Punjab and Haryana High Court, wherein the attention of the Hon'ble High Court was drawn to the notification dated 25.02.2019 whereby no new red clay brick kiln shall be installed and operated

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within 300 km from a coal or lignite based thermal power plant after publication of the notification. The existing red clay brick kilns located within 300 km. shall be converted into fly ash based bricks or blocks or tiles manufacturing unit within one year from the date of publication of the notification and in order to encourage the conversion, Thermal Power Plant(s) should provide fly ash at the rate of Re 1 per ton and bear the full transportation cost upto 300 km to such units.

8. That the Hon'ble Punjab and Haryana High Court has observed that the petitioners are asked to adopt the 'induced draft technology' with 'zig-zag setting' and it may be shifted from red clay brick kilns to fly ash based bricks. Later on as per the draft rules notified on 25.02.2019, the technology used in the red clay brick kilns viz-a-viz the fly ash bricks would be entirely different. With these observations the Hon'ble Punjab and Haryana High Court by passing an order dated 1.10.2019 in Civil Writ Petition No. 22165 of 2019 and other connected matters has requested the Secretary, Ministry of Environment, Forest & Climate Change, Government of India to come present to assist the Court in resolving the issue due to adoption of two different technologies. A copy of order dated 1.10.2019 passed by the Hon'ble Punjab and Haryana High Court in Civil Writ Petition No. 22165 of 2019 and other connected matters is enclosed herewith as **Annexure-B**.
9. That the Hon'ble Punjab and Haryana High Court was further pleased to pass an order dated 3.10.2019 in Civil Writ Petition no. 22165 of 2019 and other connected matters, wherein directions were issued to the Secretary, Ministry of Environment, Forest &

Sundat Singh

Climate Change, Government of India to notify the final rules after hearing the objections on or before 15.11.2019. It was also mentioned in the said order dated 15.11.2019 that "It goes without saying that in case of any coercive action being taken by the State of Punjab, it shall be open to the petitioners to approach this Court."

A copy of order dated 3.10.2019 is enclosed herewith as **Annexure-C.**

10. That the case in Civil Writ Petition No. 22165 of 2019 and other connected matter was again heard by the Hon'ble First Division Bench of the Hon'ble Punjab and Haryana High Court on 18.11.2019 and after hearing the Ld. Counsel for the parties, time for taking decision in respect of the issue involved in the cases was extended for three months and the cases were adjourned to 4.2.2020. A copy of order dated 18.11.2019 is enclosed herewith as **Annexure-D.**
11. That the Board is taking action against the brick kilns who are found operating without conversion to induced draft technology with zig-zag setting. It is relevant to mention here that mostly the brick kilns in the State of Punjab are lying closed at present.
12. That the present Report is hereby submitted for kind perusal, consideration and appropriate orders of this Tribunal.

Dated: 28-12-2019

Sandeep Singh
**Environmental Engineer,
Punjab Pollution Control Board-
cum-Nodal Agency**

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Annexure - A

Information regarding no. of brick kilns presently operating without adopting zig-zag technology

(As on 17.12.2019)

Name of Regional Office (A)	Total No. of Brick kilns (B)	No. of closed brick kilns (C)	No. of operational Brick kilns (D)=(B-C)	No. of brick kilns actually operating presently without adopting zig-zag technology (E)	Action taken against brick kilns as mentioned in (E)
Patiala	155	05	150	0	
Sangrur	296	07	289	0	0
Bathinda	513	145	368	1	0
Faridkot	582	95	487	2	<ul style="list-style-type: none"> M/s Balaji Bricks Co., Burja Road, Vill. Malout, Distt. Sh. Muktsar Sahib: Found in operation during visit on 26.11.2019 and further action is under process. M/s Shree Balaji Int Udyog, Vill. Azamwala, Tehsil & Distt. Fazilka: Directions issued u/s 31-A of the Air Act, 1981 for closure of the brick kiln. M/s Garg bricks Co., Panjava Mandal, Tehsil Abohar, Distt. Fazilka; Directions issued u/s 31-A of the Air Act, 1981 for closure of the brick kiln.
Fatehgarh Sahib	80	26	54	0	
Jalandhar	285	14	271	0	0
Hoshiarpur	221	2	219	0	0
Amritsar	428	32	396	0	0
Batala	257	13	244	0	0
Mohali	209	43	166	0	0
Ludhiana-I	53	09	44	0	0
Ludhiana-II	60	0	0	0	0
Ludhiana-III	44	12	32	0	0
Ludhiana-IV	146	20	126	0	0
Total	3329	423	2846	3	0
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(Coroll.)

**Status of conversion of Brick Kilns into Induced Draft Zig-Zag Setting Technology
in the State of Punjab
(as on 17.12.2019)**

Sr. No.	Technology Provider (TP)	Kilns that have engaged Tech. Provider (Cumulative Nos.)	Kilns to whom completion certificate issued by TP (Out of C) (Nos.)	Kilns under construction/ yet to start construction but have made MOU with the TP (C-D) (Nos)
A	B	C	D	E
1.	Punjab State Council for Science & Technology, Chandigarh	830	494	336
2.	Central Building Research Institute, Roorkee: (CBRI) Authorized Technical Providers			
a)	Team Energy Pvt. Ltd., Greater Noida	738	462	276
b)	Pollution Consultants & Engineers, Faridabad	255	88	167
	Total:	1823	1044	779

CWP No. 22165-2019 (O&M)
CWP No. 24000-2019 (O&M)
CWP No. 26692-2019 (O&M)
CWP No. 28508-2019 (O&M)

M/s Vipin Kumar Rakesh vs. Union of India and others
Kumar and others

Present: Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Shalender Nagpal, Advocate, for the petitioners in
CWP No. 22165-2019.

Mr. Gurminder Singh, Sr. Advocate with
Mr. RPS Bara, Advocate, for the petitioners in
CWP No. 24000-2019.

Mr. Ashok Aggarwal, Sr. Advocate with
Mr. Mukul Aggarwal, Advocate for the petitioners in
CWP No. 26692-2019.

Mr. Arman Gagneja, Advocate with
Mr. Munish Gupta, Advocate, for the petitioners in
CWP No. 28508-2019.

Mr. Atul Nand, Advocate General, Punjab with
Ms. Diya Sodhi, Assistant Advocate General, Punjab.

Mr. Satish Singla, Central Govt. Standing Counsel
for respondent No.1 in CWP No. 22165-2019.

Mr. Gaurav Pathak, Advocate for CPCB.

Mr. Arvind Moudgil, Senior Counsel, Govt. of India
for respondent No.1 in CWP No. 26692-2019.

Mr. Arun Gosain, Advocate for Union of India.

The Department of Science, Technology and Environment vide order dated 28.05.2019 has decided to regulate the process of conversion of brick kilns to 'induced draft technology' with 'zig-zag setting' by issuing directions under section 5 of the Environment (Protection) Act, 1986. These directions are nine in number. According to sub para-(iii) of para-14 of the aforesaid order, no conventional brick kiln with natural draft technology shall be allowed to operate beyond 30.09.2019.

The attention of the Court has been drawn to the notification dated 25.02.2019 whereby no new red clay brick kiln shall be installed and operated within 300 km from a coal or lignite based thermal power plant after publication of the notification. The existing red clay brick kilns located within 300 km. shall be converted into fly ash based bricks or blocks or tiles

manufacturing unit within one year from the date of publication of the notification and in order to encourage the conversion, Thermal Power Plant(s) should provide fly ash at the rate of Re 1 per ton and bear the full transportation cost upto 300 km to such units.

The objections to the draft amendments were invited within a period of 60 days from the date of notification i.e. 25.02.2019. This Court had been repeatedly asking the Union of India as to what decision has been taken after receipt of the objections to the draft amendments as mentioned in the notification.

Learned counsel appearing on behalf of the Ministry of Environment, Forest and Climate Change, submitted at the bar that the entire process would take about six more months. The petitioners are asked to adopt the 'induced draft technology' with 'zig-zag setting' and it may be shifted from red clay brick kilns to fly ash based bricks. Later on as per the draft rules notified on 25.02.2019, the technology used in the red clay brick kilns viz.a.viz. the fly ash bricks would be entirely different.

It is in these circumstances, the Secretary, Ministry of Environment, Forest and Climate Change, Government of India, is requested to be present in the Court on the next date of hearing to assist the Court in resolving the issue due to adoption of two different technologies.

List again on 03.10.2019.

A copy of the order be given *dasti* on usual charges.

A copy of this order be placed in the connected files.

(RAJIV SHARMA)
ACTING CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

01.10.2019
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CWP-22165-2019 (O&M)
CWP-24000-2019 (O&M)
CWP-26692-2019 (O&M)
CWP-28508-2019 (O&M)

M/s Vipin Kumar Rakesh Kumar and others
Vs
Union of India and others

Present: Mr. Sanjay Kaushal, Senior Advocate,
with Mr. Shalender Nagpal, Advocate,
for the petitioners in CWP-22165-2019.

Mr. Gurminder Singh, Senior Advocate,
with Mr. R.P.S. Bara, Advocate,
for the petitioners in CWP-24000-2019.

Mr. Mukul Aggarwal, Advocate,
for the petitioners in CWP-26692-2019.

Mr. Munish Gupta, Advocate,
for the petitioner in CWP-28508-2019.

Mr. Satya Pal Jain, Additional Solicitor General of India,
with Mr. Satish Singla, Advocate,
Mr. Arvind Moudgil, Advocate,
and Mr. Ajay Kalra, Advocate for Union of India.

Mr. Suveer Sheokhand, Additional Advocate General, Punjab,
with Ms. Divya Sodhi, Assistant Advocate General, Punjab.

Mr. Gaurav Pathak, Advocate,
for respondent No. 3 in CWPs-22165-2019 and 26692-2019.

* * * *

In sequel to the directions issued by this Court, the Secretary, Ministry of Environment, Forest and Climate Change, Government of India is not present. However, Mr. Aditya Naryan Singh, Scientist E, Mr. Sudheer Chintalapati, Scientist D and Mr. Karma Zimpa Bhutia, DIG (Central), Northern Regional Office, Ministry of Environment, Forest and Climate Change, Chandigarh are present to assist the Court with record.

Mr. Satya Pal Jain, learned Additional Solicitor General of India submits that in sequel to the notification dated 25.02.2019, about thirty thousand objections were

received against the proposed draft rules out of which fifteen thousand have been processed and the remaining shall be processed within a period of one month.

In view of this, we direct the Secretary, Ministry of Environment, Forest and Climate Change, Government of India to notify the final rules after hearing the objections on or before 15.11.2019.

It goes without saying that in case of any coercive action being taken by the State of Punjab, it shall be open to the petitioners to approach this Court.

In the meantime, it shall be open to the parties to exchange pleadings.

List on 18.11.2019.

A photocopy of the order be placed in the connected files.

(RAJIV SHARMA)
ACTING CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

03.10.2019
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CM No. 17160-CWP of 2019 in/and CWP No. 22165 of 2019,
CWP Nos. 24000, 26692, 28508, 29306, 29407, 30183 and 31751 of 2019

M/s Vipin Kumar Rakesh Kumar and others vs Union of India and others

Present Mr. Sanjay Kaushal, Senior Advocate with
Mr. Arjun Shukla, Advocate,
Mr. Gurminder Singh, Senior Advocate with
Mr. R. P. S. Bara, Advocate, Mr. Munish Gupta, Advocate,
Mr. Aman Dhri, Advocate, Mr. Mukul Aggarwal, Advocate,
for the petitioner.

Mr. Suveer Sheokand, Additional Advocate General, Punjab.
Mr. Satyapal Jain, Senior Advocate,
Additional Solicitor General of India with
Mr. Satish Singla, Mr. Arvind Moudgil and
Mr. Ajay Kalra, Advocates, for Union of India.

Ms. Diya Sodhi, Advocate, for Punjab Pollution Control Board.

Mr. Gaurav Pathak, Advocate, for Central Pollution Control
Board.

Heard learned Additional Solicitor General of India in CM No.
17160-CWP of 2019 in CWP No. 22165 of 2019, filed for extension of
time.

Having heard learned counsel for the parties, time for taking
decision in respect of the issue is extended upto three months.

Application stands disposed of.

Main cases

List on 4.2.2020.

A copy of this order be placed on the file of each connected
case.

(Ravi Shanker Jha)
Chief Justice

18.11.2019
vs

(Rajiv Sharma)
Judge