

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

M.A No. 94 / 2022

IN

ORIGINAL APPLICATION No. 113 OF 2020

IN THE MATTER OF:

RAMESH CHANDRA VERMA

.....APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS.

...RESPONDENTS

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Northern Coalfields Ltd.
Khadia Project

Through

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Supreme Court of India,
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Filed on: /06/2024
Place: New Delhi





S. R. 3227/2024 143
Place... Lucknow
Date... 28/8/2024

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH

NEW DELHI

M.A No. 94 / 2022

IN

ORIGINAL APPLICATION No. 113 OF 2020



IN THE MATTER OF:

RAMESH CHANDRA VERMA

.....APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS.

...RESPONDENTS



CANCELLED
Stamp Rs 10.00
Affixed

RESPONSE ON BEHALF OF NORTHERN COALFIELDS LTD,

KHADIA PROJECT, DISTRICT-SONEBHADRA

I, J.S.P. Singh , aged about 58 years, S/o Late Shri. Kripa Nand Singh , R/o Khadia Area, Post- Shaktinagar, Dist- Sonbhadra, Uttar Pradesh, Presently at do hereby solemnly affirm and declare as under: -

1. That I am working as Staff Officer (Civil), Northern Coalfields Limited, Khadia Area, as such in my official capacity, I am well conversant with the facts and circumstances of the Present Case and also Competent to swear this Present Affidavit.
2. That this Hon'ble Tribunal vide its order dated 28.08.2018 passed in O.A No. 164/2018 directed the M/s Northern Coalfield Limited to take all



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28/8/2024
NOTARY Waidhan
Dist Court Singrauli

possible initiatives for slope stabilization thereby preventing any possibility of accidents of sliding OB causing damage to property and life, the coal mines shall ensure that transportation of coal shall only be either by railway wagons or by the dedicated conveyor system. No transportation of coal shall be permitted by road to any of the industries in the Singrauli area, as recommended earlier also. A copy of the order dated 28.08.2018 passed by this Hon'ble Tribunal in O.A No. 164/2018 is annexed herewith and marked as ANNEXURE R-1.



3. That in order to comply with the directions of this Hon'ble Tribunal the concept of construction of 'wharfwall' was developed which is more or less an infrastructure facility created for railway wagon loading to transport coal through rail. The Khadia Project of Northern Coalfield Ltd is equipped with Coal Handling Plants of 04 & 06 MTPA capacity for dispatch of coal to UPRVUNL through Merry Go-Round arrangement (a derivative of rail transport). For the purpose of reduction in road transportation of coal, to minimize the pollution associated with road dispatch and to decrease in traffic density, a letter of award was issued for 'Construction of Wharfwall & allied works' to M/s Baghel Infrastructure Pvt. Ltd vide letter dated 26.09.2020.



4. That M/s Baghel Infrastructure Ltd started its work on 25.10.2020 in terms of the award dated 26.09.2020 issued by NCL. M/s Baghel Infrastructures Pvt. Ltd had to lodge a complaint dated 14.10.2021 pointing out the hindrance caused by the villagers a copy of the which was also addressed to S.P and C.O , Sonebhadra.



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 Ramesh Shankar Shah
 NOTARY Waidhan
 Dist Court Singrauli (M.P.)

5. That it is an admitted position that various meetings were held between local villagers including the applicant and Northern Coalfield Ltd, Management for arriving at a positive solution and also various communication were made to local authorities vide letter no. 2823 dated 06.03.2021, letter no.2958 dated 06.06.2021, letter no. 3052 dated 30.08.2021, letter no. 3056 dated 02.09.2021, letter no. 3099 dated 04.10.2021 and letter no. 3172 dated 01.12.2021. Director (Technical/ Project & Planning), NCL along with other officials of NCL also held meeting with District Magistrate, Sonebhadra on 31.08.2021 to pursue the matter, but the matter could not be resolved. Due to delay in resolution of the problem, contractual agency M/s Baghel Infrastructure Pvt. Ltd repeatedly requested for foreclosure of the work on the ground of hindrance and overhead expenses, thereafter, the East Central Railway agreed on 31.12.2021 for executing the balance work left by the M/s Baghel Infrastructure Pvt. Ltd and the NCL has to foreclose the contract of work of construction of wharf wall and allied works awarded to M/s Baghel Infrastructure Pvt. Ltd.

6. That the NCL management filed its Progress Report/ Compliance status dated 15.10.2021 before the Oversight Committee, NGT, U.P, Lucknow, in O.A No. 113/2020 thereby stating that in FY 2021-22, total 50,000 nos of plant sapling have been planted on finalized OB dump. The NCL also agreed for water sprinkling during the construction of Wharfwall, to reuse water discharged during construction and for compliance of Construction and Demolition Waste Management Rules, 2016.

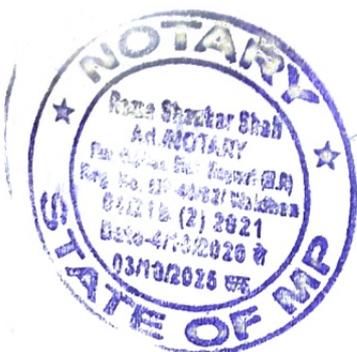


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Ramesh Shankar Shah
 NOTARY Waidhan
 Dist Court Singrauli (M.P.)

7. That the Oversight Committee in its meeting dated 18.10.2021 (held virtually) considered the issue involved in the case and the order dated 14.10.2021. The oversight committee reviewed the implementation of the Hon'ble NGT's order dated 23.08.2021 and considered the compliance report dated 18.10.2021. The Committee observed that the NCL Khadia Project has followed the directions of the Hon'ble NGT. A copy of the Report of Oversight Committee dated 18.10.2021 is annexed herewith and marked as ANNEXURE R/2.
8. That the Sr. Divisional Engineer, East Central Railway accepted the proposal for carrying out balance work of wharf-wall on 31.12.2021 as other works such as "Escape line for Engine with extension of bridge and Construction of Control room for weigh bridge and barrier at level crossing for making operationalization of Wharf-wall at Khadia Project" were already under their scope of work. The total cost of project was Rs. 25,63,60,427/-, therefore, 10% of the project cost would be Rs. 2.5 Crores but not Rs. 5 Crores as held by this Tribunal.
9. That the East Central Railway vide its letter no. CAO-C-SOUTH-HQ-ENGINEERING/ECR-CAO-C-S-ETEN-54-22-23 dated 04.01.2022 has issued letter of acceptance to M/S K.N. International Ltd for earthwork in cutting, filling, compaction, blanketing, turfing, extension of minor bridges and other associated work as per railway specification and standard for the construction of engine escape line and wharfwall siding for the NCL Khadia Project under Dy.CE/C/Renukoot unit under Dhanbad division of East Central Railway.



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Ramashankar Shah
 NOTARY Waidhan
 Distt Court Singrauli (M.P.)

10. That the NCL management again filed its Progress report/ Compliance status dated 04.03.2022 stating therein that 66% of the construction includes “retaining wall and drain wall along the adjacent overburden dump, RCC Box culvert, wharfwall alongside existing railway track, earth filing work, etc.”. In the report it was also stated that Mobile sprinkling was done during the above construction and will also be done during further construction and no water was discharged in drain also no waste was generated during the construction period.

11. That the Ministry of Environment gave its clearance on 27.07.2022 for increase in production capacity from 14 MTPA to 15 MTPA for NCL, Khadia project.

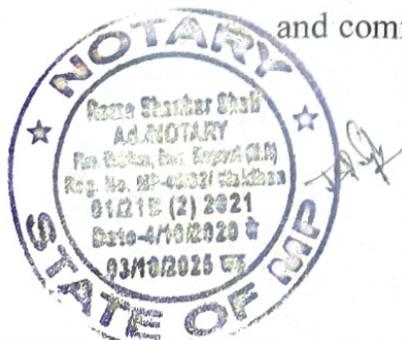
12. That as directed in the Video Conferencing held by the Oversight Committee, a summary report has already been submitted by NCL Management vide letter no. KHD/GM/M/Env/UPPCB/22-23/3527 dated 05.08.2022 detailing about the hindrance caused by the local villagers for construction of Wharfwall under misinterpretation of increase in pollution and action taken.

13. That as per the Terms of Reference for 20 MTPA dated 14.02.2022 issued by the Ministry of Environment under heading “Infrastructure & Mine Management” in pit conveyor belt with silo loading should be proposed and installed for transportation of coal till railway siding. No transportation of coal by trucks/dumpers shall be proposed in EIA/EMP”. To comply with this directive, construction of Rapid Loading System (RLS) has been planned which will take another 2 years for installation and commissioning. This rapid Loading System shall further augment the



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 NOTARY Waidhan
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coal offtake through rail mode. Here, it may also be noted that for installation and commissioning of RLS, even the escape line/tracks and signaling etc, the work of which is being undertaken by ECR railways is also being opposed by the local villagers.

14. That in the 279th meeting of Northern Coalfields Ltd. held on 24.09.2022 approval for addendum to the project report for Khadia Expansion OCP (10 to 16 Mtpa, Peak-20 Mtpa) was considered. Wherein at point (iii) (a) it was resolved that in context of Eastern Stream, the proposed location of Krishnashila side CHP stream has been relocated to a position situated in the central haul road of Khadia OCP near to the coal face. Receiving pit is situated in the central haul road for further transportation by conveyor belt to proposed ground bunker located at wharfwall for loading of coal in railway wagon by Silo/Surge Bin located on old KBJ line. Capacity of this CHP will be 4 Mtpa with awarded value of Rs. 237.44 Crores. Further, there is a proposal to enhance the capacity of existing CHP of Khadia OCP by 2 Mtpa by simultaneous operation of the stand by stream of 6 Mtps Phase II CHP. A copy of the relevant minutes of the 279th meeting of Northern Coalfields Ltd. held on 24.09.2022 is annexed herewith and marked as ANNEXURE R / 3.

15. That the office of the Regional Forest Officer vide its letter no. 06/Renukoot/29(Plantation) dated 27.09.2022 has informed that the target allotted by the NCL, Khadia Project for plantation of 82,500 plants for year 2022-23 has been successfully carried out by planting different varieties of plants.



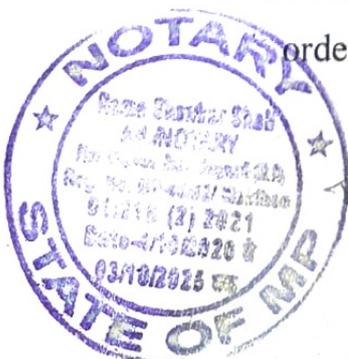
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 NOTARY Waidhan
 Dist Court Singrauli (M.P.)

16. That the oversight committee headed by Justice SVS Rathore furnished its report before this Hon'ble Tribunal considering the submissions of Regional Officer as a truth and erred in holding that the environmental pollution caused by the NCL Khadia Project due to non-construction of the wharf wall is continuing and the health of the people living in the surrounding area continues to be adversely affected. The committee further stated that the attention of your Lordship is drawn towards stoppage of construction work of the wharf wall soon after the case was released by the Hon'ble NGT on 23.08.2021, its non-resumption till date even after repeated directions of the Oversight Committee and non-enforcement of environmental laws by the Regional Officer, Sonebhadra and the UPPCB headquarters against the polluters. The said report was sent through email dated 01.12.2022 without communicating it to the NCL and the same was treated as M.A No. 94/2022.

17. That it is also necessary to point out that the Northern Coalfield Ltd, Khadia Project had to carry out a study on "Scientific study for the air pollution impacts associated with the operationalization of Wharf-wall and pollution control/mitigation measures to minimize pollution load" by Indian Institute of Technology (Banaras Hindu University) as proposed by Regional Officer, UPPCB, Sonebhadra during the meeting held on 04.07.2021 in the chairmanship of SDM Dudhi and in the presence of NCL Management and Villagers to access as to whether the proposed pollution control measures will be suitable for controlling the pollution during operationalization of rail dispatch through Wharf wall.

18. That the U.P Pollution Control Board instead of pointing out the law and order situation which was within their knowledge has fastened the fault of



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non-resumption of construction of wharf wall on the Northern Coalfields Ltd despite of the fact that the villagers were causing hindrance even to the works awarded to ECR Railways regarding railway line and signaling etc which will be necessary for Operationalization of Rapid Loading System as well. If the appropriate measures to maintain law and order situation is not carried out by the State in such situation the installation of Rapid Loading System and other related works may also get affected.

19. That so, far the Over Burden dump is concerned, the Khadia Project has taken due preventive measures to mitigate dust pollution from the OB dump near the village by stopping the dumping activity towards the village side, plantation on over dump area and formation of retaining wall and rain at the toe of the OB dump. The report of the oversight committee dated 18.10.2021 also acknowledges that Khadia project has planted 50,000 sapling on OB dump in Financial Year 2021-2022.

20. That the NCL vide its letter dated 16th March, 2023 sought intervention of the District Magistrate, Sonbhadra thereby pointing out that the East Central Railway tried to resume the work on 27.02.2023 but it was again disturbed by local villagers and the work could not be resumed. It was also pointed out that the Hon'ble NGT vide order dated 13.02.2023 has granted two months' time for completion of work failing which penal action may also be taken including stoppage of Mining Operation.

21. That several meetings including meeting dated 07.04.2023 and 26.04.2023 were also held between local villagers, NCL management and local authorities for resumption of construction of wharfwall and rail connectivity by informing them that the said construction of wharfwall



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[Signature]
 P. N. Shankar Shahi
 NOTARY Waidhan
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and rail connectivity is in national interest as it would sub-serve the purpose of minimizing the pollution by adopting rail transportation of coal but the villagers remained adamant on their stand by creating law and order problem.

22. That the NCL again vide its letter dated 06.05.2023 while pointing out the continued law and order problem created by local villagers of Nautola during construction of wharfwall and rail connectivity executed by the East Central Railway, requested the District Magistrate, Sonebhadra to manage the law and order situation so that the construction of wharfwall could resume at the earliest. A true copy of NCL Letter No. NCL/KHD/GM/Min/Env/Wharfwall/23-24/3860 dated 06.05.2023 addressed to District Magistrate, Sonebhadra is annexed herewith and marked as ANNEXURE R /4.

23. That this Hon'ble Tribunal vide its order dated 13.02.2023 has recorded that " 1. Grievance in this application is against developing of a 'wharf wall' (platform for storing coal and **flyash**) and 'Overburden dump' (stack of mined coal, **mixed with fly ash**) by Northern Coalfield Limited, Kharia Project, Shakti Nagar, Sonebhadra, U.P., near railway residential area. On account of such activity, dust is generated, affecting the air quality and the health of the inhabitants. The activity falls in 'Red' category, having serious environmental impact.

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9. Accordingly, we hold the PP liable to pay compensation of Rs. 5 Cores which is 10% of the project cost for past violations, apart from liability to



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the remedy the situation within two months. The amount of compensation be deposited with the State PCB within two weeks which may be utilized for restoration of environment as per District Environment Plan, if necessary, associating the PP, District Magistrate and other stake holders."

The fact remains that 'fly ash' is not generated in the Coal mines rather coal power plant generates electricity by burning coal which creates a hazardous byproduct known as 'fly ash'.

24. That a work order was issued on 10.07.2021 to IIT-BHU for carrying out "Scientific Study of Fly ash utilization/ dumping/ mixing in the OB of the running/ active mines of NCL along with its viability and safety aspect of man and machines." As per report submitted by IIT BHU, Varanasi, disposal of fly ash with overburden is not possible due to geo mining conditions, high stripping ratio, and huge rate of OB removal and instability of dump due to lowering of factor of safety (less than 1) as per details given below from study in present conditions.

25. Therefore, additionally, Work Order for the study titled "Feasibility study in utilizing fly ash in the running Nigahi mine of NCL has been given to CSIR CIMFR, Dhanbad and study is ongoing at Nigahi mine. After considering the effect of monsoon on the created fly ash mixed OB dump at Nigahi Area, the CIMFR is expected to submit its final report by December, 2024. A copy of the NCL Letter No. NCL/SGRL/R&D/2022-23/261 dated 10.01.2023 is annexed herewith and marked as ANNEXURE R /5.



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 NOTARY WALDHAN
 Dist Court Singrauli (M.P.)

26. That during open cast mining the overline soil and the fragmented rock is removed and is heaped to form the Over Burden dump which is to be kept in a proper manner and as per the environmental norms. Over Burden (OB) dumping near the Nawatola village has already been stopped and plantation on OB is a continuing activity, retaining wall and drain has been constructed at the toe of the OB dump. The dump stability report prepared in October 2019 by Central Mine Planning and Design Institute Limited (CMPDIL) has been sent to UPPCB vide letter dated 24.01.2023. The Maximum Reduced Level of the east dump is 487m above mean sea level whereas the joint committee in its report has mistakenly considered total height of dump as 487 m. Every year, before onset of the monsoon, measures are taken for control of surface run-off.

27. That it is noteworthy to point out that in order to augment the need of rail transportation of coal, the NCL vide its Letter of Acceptance dated 08.01.2024 has awarded the work of "*Planning, Design, Engineering, Construction, Fabrication, Erection, Supply, Installation, Trial run and commissioning of Coal Handling Plant of 4 MTPA consisting of all Civil, Structural, Electrical and Mechanical Works and all other accessories and facilities complete in all respects on turnkey basis and Operation and Maintenance of plant for 5 years in Khadia OCP of NCL*" to M/s S.K.Samanta & Co. Pvt. Ltd for an amount of Rs. 272 Crores (approx) including GST. A copy of the NCL Letter of Acceptance bearing No. NCL/SGR/CMC/KHADIA CHP/LOA/2024/02 dated 08.01.2024 is annexed herewith and marked as **ANNEXURE R /6.**



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 26/6/2024
Ramashankar Shah
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 Dist Court Singrauli (M.P.)

28. That in terms of clause 3 of Letter of Acceptance dated 08.01.2024, the joint inspection was carried out on 11.03.2024 and the site was handed over to M/s S.K.Samanta & Co. (P) Ltd. The date of commencement is to be reckoned from 17.03.2024 and the date of completion of construction is 16.03.2026. The contractor was requested to take-up the work observing all formalities as per LOA and commence the work only after submission of Performance Security. A copy of the NCL Letter No. NCL//KHD/GM/24/4194 dated 15.03.2024 is annexed herewith and marked as ANNEXURE R /7.

29. That being aggrieved by the Order dated 13.02.2023 passed by this Hon'ble Tribunal, the Northern Coalfield Ltd was constrained to approach the Hon'ble Supreme Court by preferring Civil Appeal No. 1528/2023 wherein the Hon'ble Supreme Court vide its order dated 17.03.2023 stayed the operation of the order dated 13.02.2023 passed by this Hon'ble Tribunal. The Respondent No.2/ Ramesh Chandra Verma filed his statement of objection before the Hon'ble Supreme Court admitting that he alongwith local villagers were causing obstruction to the construction of wharfwall as the land belongs to East railway and for which they have preferred WRIT-C No. 2243 of 2023 before the Hon'ble High Court of Judicature at Allahabad. A copy of the Statement of Objection filed by the Respondent No.2 before the Hon'ble Supreme Court is annexed herewith and marked as ANNEXURE R /8.

30. That the Hon'ble Supreme Court finally vide order dated 19.04.2024 passed in Civil Appeal No. 1528/2023 allowed the appeal of the Northern Coalfields Ltd by setting aside the order of this Tribunal to the extent of



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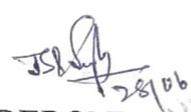
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Ramashankar Shah
 NOTARY Waidhan
 Dist. Court Singrauli (M.P.)

imposition of Rs. 5 Crores as penalty. A true copy of order dated 19.04.2024 passed by Hon'ble Supreme Court in Civil Appeal No. 1528/2023 is annexed herewith and marked as ANNEXURE R/9.

31. That the Northern Coalfields Ltd is taking appropriate remedial action, in accordance with Statutory provisions for prevention, control and abatement of environmental pollution/degradation and for protection and improvement of environment.
32. That I say that the Annexure R-1 to R-9 annexed along with the present Affidavit are true copy of its respective original.
33. I say that averments of facts stated herein above are true to my knowledge, no part of it is false and has been derived from the official records and nothing material has been concealed therein.


DEPONENT

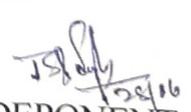


VERIFICATION

I, above named deponent mentioned above do hereby most solemnly affirm and verify that what is stated in the above affidavit is true to my knowledge and I believe the same to be true as per the official records of Northern Coalfield Ltd.

Verified at Singrauli on this 28th day of June, 2024.




DEPONENT



Identified by
 सारयल क्र०... 2227
 आज दिनांक 28/6/24
 श्रीमती/श्री ज. र. पी. सिंह पिता/पति
 श्री र. पी. सिंह
 तहसील दुहाई जिला सोनभद्र
 उपस्थित होकर यह शपथ पत्र/अनुबंध/दस्तावेज निष्पादित
 किया. इनकी पहचान श्री _____ ने की.


 Ramashankar Shah
 NOTARY, Singrauli
 Dist. Court Singrauli (M.P.)

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

**Original Application No. 164/2018
(Earlier O.A. No. 276/2013)**

And

Execution Application No. 22/2018

In

(Original Application No. 276/2013)

In the matters of :-

Ashwani Kumar Dubey Vs. Union of India & Ors.

And

Ashwani Kumar Dubey Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present:

Applicant :	Mr. Ashwani Kr. Dubey, applicant in person	
Respondents:	Ms. Deep Shikha Bharti, Adv. for State of UP	Mr. V.K. Shukla and Ms. Vijay Laxmi, Advs. for State of MP
	Mr. Mahesh Agarwal and Mr. Nishant Rao, Advs.	Mr. Mukul Singh, Adv. for MoEF
	Mr. Daleep Dhyani, Adv. for UPPCB	Mr. Rajkumar, Adv. for CPCB
	Mr. Syed Shahid Hussain Rizvi, Zeeshan Rizvi, Advs.	Mr. Yogesh K. Chandna, Adv.
	Mr. Rajat Jariwal and Mr. Ayush Jain, Advs. for R-17	Mr. Anip Sachthey, Ms. Anjali Chauhan and Ms. Ria Sachthey, Advs. for R-36
	Mr. Rajul Shrivastav, Adv for MPPCB	Mr. Vivek Singh and Mr. Swastik Dalai, Advs.
	Mr. Pawan Upadhyay, Mr. Abhishek Awasthi and Mr. Digaj Pathak, Advs. for R-22& 23	Mr. Nitin Mishra and Mitali Gupta, Advs.
	Dr. Ashwani Bhardwaj, Adv.	Mr. Bharat Sanpal, Ms. Isha Gupta, Ms. Babita Kushwar, Advs.

	Date and Remarks	Orders of the Tribunal
	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p style="text-align: center;">R</p>	<p>1. The original application was filed with the grievance against pollution caused in District Singrauli in the State of Madhya Pradesh and District Sonebhadra in the State of Uttar Pradesh.</p> <p>2. Case of the applicant is that there are thermal power plants in the said Districts and on account of their activities, acute pollution is caused resulting in continued</p>

<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>destruction of environment. The industries are discharging mercury beyond prescribed norms affecting the nervous system causing disorders and other ailments to inhabitants. The said areas are critically polluted as per the 'Comprehensive Environmental Polluted Index Report'. There are studies that fly ash stored by the industries creates high pollution. High pollution is also caused in the process of transportation of coal by the trucks from the coal companies. No required safeguards are being adopted.</p> <p>3. This Tribunal vide the order dated 25.08.2014 constituted a Core Committee and four Sub-Committees. The Core Committee for monitoring the hazards of industrial development in Singrauli area comprising of:</p> <ol style="list-style-type: none"> a. The representatives from Central Pollution Control Board, Madhya Pradesh Pollution Control Board, Uttar Pradesh Pollution Control Board b. Director of Indian Agricultural Research Institute c. Director of Indian Council of Forestry Research and Education d. Director of National Institute of Hydrology e. Director of Indian Institute of Toxicology Research f. Dr. I. M Mishra, Chemical Engineering, Department, IIT Roorkee g. Dr. Vinod Tare, Professor Environmental Engineering, IIT Kanpur h. Dr. T. Chakrabarti, Visvesvaraya National Institute of Technology, Nagpur i. Prof. Kanchan Chopra, Institute of Economic
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>Growth.</p> <p>j. Nominee of Director, All India Institute of Medical Sciences</p> <p>k. Nominee of Director, National Institute of Occupational Health, Ahmedabad.</p> <p>l. Joint Director, EIA Division, Ministry of Environment and Forests.</p> <p>4. A Sub-Committee was constituted to assess the potential impact of pollution on water resources as follows:</p> <p>a. Representative of the Central Ground Water Authority having experience in Water Quality</p> <p>b. Representative of the Ministry of Water Resources having experience in Water Quality</p> <p>c. Representative of State Irrigation Department having experience in Water Quality</p> <p>d. Representative of National Institute of Hydrology from Water Quality Laboratory</p> <p>5. A Sub-Committee for assessing impact on land resources was also constituted as follows:</p> <p>a. Representative of Indian Institute of Toxicology Research, Lucknow.</p> <p>b. Representative of Central Pollution Control Board, Madhya Pradesh State Pollution Control Board and Uttar Pradesh State Pollution Control Board not below the rank of Regional Officer.</p> <p>c. An Expert of Soil Science from Indian Institute of Soil Science, Bhopal.</p> <p>d. An Expert on Forest Soil from Indian Council of</p>
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>Forestry Research and Education, Dehradun.</p> <p>6. A Sub-Committee to assess impact on air quality was as follows:</p> <ul style="list-style-type: none"> a) Representative of the Central Pollution Control Board, b) Representative of the Madhya Pradesh Pollution Control Board c) Representative of the Uttar Pradesh Pollution Control Board d) An expert on Air Quality from National Environmental Engineering Research Institute, Nagpur. e) An expert on Air Quality from IIT, Kanpur. <p>7. A Sub-Committee to assess impact on health was as follows:</p> <ul style="list-style-type: none"> a) Committee to have at least one Doctor each from Uttar Pradesh and Madhya Pradesh apart from one Social Scientist from each of the state and involve Panchayati Raj Institutions for collection of primary data. <p>8. The Committee submitted its report which was accepted by the Tribunal vide order dated 06.12.2017. The Core Committee was directed to conduct a fresh inspection. Two Supervisory Committees were constituted for implementation of recommendations of the Core Committee Report. Composition of said Committees was as follows:</p> <ul style="list-style-type: none"> i) Secretary Environment of the respective States ii) Member Secretary of the Pollution Control Board of the concerned States iii) District Magistrate of the concerned district who
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>shall be conveners of the meeting.</p> <p>iv) Zila Panchyat Adyayksh of the District in which the village falls inspection of which is being conducted by the Team.</p> <p>v) Nominee of the Mayor in the case of Urban areas.</p> <p>vi) Senior Officer from the Coal Mine Department of the States.</p> <p>9. The Supervisory Committees were required to submit monthly reports to the Core Committee and Core Committee was to submit reports to this Tribunal every three months. Direction was also issued to ensure that every village is provided with a RO plant and if necessary two or more plants so that every resident can get potable water for drinking. The cost was to be borne by the industries. Direction was also issued to fix on-line air monitoring systems as well as water quality monitoring systems. Land was to be provided by the Government or the Gram Panchayat and the cost of installation or maintenance was to be borne by the industries. The stone crushers working without permission were directed to be closed down. They were permitted to operate and they were required to install RO system as per above directions.</p> <p>Accordingly, a report of February 2018 has been filed before this Tribunal on 03.04.2018. The report has been signed by Dr. Tapan Chakrabarti, Chairman of Core Committee & former Director, NEERI, Nagpur, Mr. A. Sudhakar, Member Secretary, CPCB, Prof. I.M. Mishra, Prof. I. M. Mishra, Chemical Eng. Dept., ISM, Dhanbad, Dr. Rajesh Singh, Scientist C, NIH, Roorkee, Shri T U Khan, Chief Env. Officer, UPPCB, Lucknow, Dr. Khajanchilal, Principal Scientist, IARI, New Delhi, Dr. Veeramgami, Scientist - B, NIOH, Ahmedabad, Mr.</p>
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>Hemant Sharma, Chief Engineer MPPCB, Bhopal, Dr. Vishavjit Kumar, Scientist D, ICFRE Dehradun. Its recommendations are as follows:</p> <p>“Final Recommendations</p> <p>Compliance requirement identified during the Inspection carried out in pursuance of the Order of the NGT dated December 6, 2017.</p> <p>The Core Committee carried out a fresh investigation in the Singrauli area on January 8 and 9 , 2018 as directed by the NGT, New Delhi (vide order dated December 6,2017).The compliance necessary further are documented as under:</p> <p>(i) Thermal Power Plants</p> <p>a) All the AWRS and ESPs installed by the thermal power plants should be made functional on continuous basis. The stacks of the power plants and the ambient air monitoring stations need to be linked with CPCB/SPCB network.</p> <p>b) Necessary renovation of the ash dykes needs to be carried out in order to prevent ash slurry going to Rihand Reservoir.</p> <p>c) District Administration/State Government is required to declare an area in the 300 km radius of the power plants as a utilization zone where fly ash/bottom ash derived bricks/blocks and building products are made mandatory to be used in the buildings and other construction activities. It is gathered that there are few brick making units which are mixing soil with fly ash to make bricks. It shall be ensured that at least 25% of flyash shall be mixed in making clay bricks within 100 Km radius of thermal power plants, otherwise it will be in contravention to the Fly ash Notification 2009 issued by the MoEF&CC, New Delhi. The .making of bricks from soil or mixed soil is to be banned forthwith.</p> <p>d) All Thermal Power Plants in Sonebhadra and Singrauli Districts must be supplied with coal containing ash less than 34% on quarterly average basis as stipulated vide Notification No. GSR 02 (E) dated January 02,2014.</p> <p>e) Shaktinagar Super Thermal Power Plant of NTPC Ltd. must repair their damaged pipeline and stop discharge of sewage into Ballia Nallah with immediate effect.</p> <p>f) Transportation of coal in open trucks is continued unabated thereby defying the very purpose of installation of the Pipe Conveyor System. Further, the residents in the concerned area complained about severe noise pollution caused by the prevailing coal transportation</p>
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>system. Necessary compliance should be carried out to reduce the noise pollution to the level required by the concerned SPCB with immediate effect. In case of dire necessity of transportation of fly ash and bottom ash, CPCB Guidelines for Loading/Unloading and Transportation of Flyash (December 2013), made for this purpose should be strictly followed. CCTV cameras are to be installed at strategic locations to monitor such transports by the concerned SPCBs. NCL, Gorbi Block B mine shall complete its railway track at the earliest and stop road transportation of coal up to Morba Railway siding. Similarly, Jayant mine shall either transport coal upto Morba railway siding by conveyor system or make arrangements to load the entire coal in railway wagons from the mine itself and stop the road transportation of coal.</p> <p>(ii) Aluminum Smelter: M/s Hindalco Industries, Renukoot</p> <p>a) Industry shall achieve emission limit of 50 mg/Nm³ for particulate matter in respect of all Baking furnaces. The emission from boilers shall be reduced to the level of 50 mg/Nm³ from the existing norms of 150 mg/Nm³ by December 31, 2019 retrofitting of exiting ESPs and also meet emission limit of SO₂ & NO_x notified for industrial boilers.</p> <p>b) Industry shall ensure that no red mud is leached out to ground water during monsoon and post monsoon period. Piezometers/monitoring wells should be installed in and around the red mud disposal sites in consultation with the CGWB/concerned SGWB. Regular monitoring of the leachate should be carried out as per the sampling and analysis plan as proposed by the concerned SPCB. Besides, industry shall facilitate utilization of Red Mud in nearby cement industries, including those located in MP. The industry shall also explore the possibility of extraction of titanium and other heavy metals from the Red Mud.</p> <p>c) The Core Committee was informed that the industry has taken a zero waste water discharge initiative though no such action plan could be obtained. This action plan must be made ready within a month's time and submitted to UPPCB for necessary approval</p> <p>(iii) M/s Aditya Birla Chemicals, Renukoot</p> <p>a) Industry shall ensure proper operation of effluent treatment plant so as to ensure the compliance of the effluent discharge standard. The industry shall also ensure that no untreated/partially treated effluent finds its way in to the Nallah leading to the Rihand Reservoir. The channel leading to Rihand Reservoir has to be intercepted, diverted and treated within the</p>
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>industry. The nallah presently passing through the factory should be isolated so that the industry cannot discharge any treated/partially/treated/untreated effluent which is being done now.</p> <p>b) There is also an urgent need for the preparation of an action plan by the industry to shift the mercury bearing brine sludge and the muck contaminated with chlorinated chemicals from the factory premises to the TSDF in consultation with the UP State Pollution Control Board. It may be stated here that storage of hazardous mercury bearing brine sludge and the muck contaminated with chlorinated chemicals inside the premises is not permitted by the prevailing Hazardous Waste Management Rules, 2016 and, therefore, to be shifted to a suitable TSDF immediately.</p> <p>(iii) M/s Northern Coalfields Limited (NCL)</p> <p>a) As per the provisions of the Notification of 2009, 25% percent of flyash should ,along with Over Burden (OB) generated in the mines of NCL, be used for back filling the abandoned mine. NCL must sign an MOU with NTPC and make available the abandoned Gorbi Mine for this purpose without further delay. NCL is required to obtain the necessary permission from the concerned DGMS in this regard. Further, the external dump and exhausted pits should be scientifically reclaimed using suitable biological and engineering measures as well as by mixing fly ash as per fly ash notification. Since human habitation has been seen to exist in the close proximity of the OB dump, NCL must take all possible initiatives for slope stabilization thereby preventing any possibility of accidents of sliding OB causing damage to property and life.</p> <p>b) The norm of ash content equal to or below 34 percent is not strictly complied with by the NCL and ash content is going as high as 40 percent and beyond .Coal beneficiation is ,therefore, be initiated to obtain coal having less than 34% ash.</p> <p>c) Also, the coal mines shall ensure that transportation of coal shall only be either by railway wagons or by the dedicated conveyor system. No transportation of coal shall be permitted by road to any of the industries in the Singrauli area, as recommended earlier also. The railway wagon loading area requires better material management as severe dust pollution is found in the area.</p> <p>(V) Stone crushers</p> <p>a) All stone crushers in Singrauli are have not taken adequate pollution control measures as the level of air pollution in the vicinity of stone crushers is high and causes a health hazards. Most of the crushers are located very near to habited area or very near to the roads/</p>
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>highways. All such stone crushers which are not suitably located as well as which do not have adequate pollution control systems should be immediately closed. Relocation of stone crushers may also be explored.</p> <p>(VI) Pollution Control Boards and MoEF& CC</p> <p>a) The regional carrying capacity of the entire Singrauli region is to be assessed before allowing any expansion scheme with respect to the existing industries. This assessment is the prerequisite for such consideration in future.</p> <p>b) The concerned SPCBs must ensure that all the major stacks from all the industries are being continuously monitored and these are linked with the CPCB/SPCB network. Effluent discharges from the industries are monitored once a month.</p> <p>c) The existing network of monitoring system for AAQ monitoring in both the districts of UP & MP need to be strengthened and expanded to get representative air quality status of Singrauli area. Industries in the area should install at least three continuous ambient air quality monitoring stations forthwith on "Polluter Pays Principle" at such locations as may be decided by CPCB in consultation with the respective SPCBs. The data generated should be transferred to SPCBs, CPCB and MoEF& CC on continuing basis.</p> <p>d) It is also essential that at least three continuous monitoring systems for mercury (Hg) monitoring in the ambient air should be installed (covering both the Districts of UP & MP) forthwith at suitable locations in the Singrauli area by the industries on "Polluter Pays Principle". CPCB in consultation with the SPCBs shall guide the industries regarding the location of the monitoring stations. Besides mercury in and surface and ground water should also be monitored manually once in a three months.</p> <p>(VII) District Administration of respective States</p> <p>a) The Awdi-Shaktinagar Marg and Singrauli-Awdi-Dibulgunj Marg are extensively used for heavy traffic and for clandestine coal transport leading to dust pollution. Further, the dense population which are residing along these roadsides are severely affected by dust pollution. As has been mentioned, coal transportation by open truck is to be banned forthwith. CCTV cameras are to be installed at strategic location to record any violation in this regard.</p> <p>b) To improve the prevailing situation, these roads are required to have 4/6 lanes and the pavements should be furnished with interlocking bricks of suitable quality to arrest air entrainment of dust.</p> <p>c) Since there is no strategy for disposal of the RO reject in an environmentally friendly manner, prevailing practice of dumping of RO reject shall affect nearby land as well as water resources with long term consequences leading to</p>
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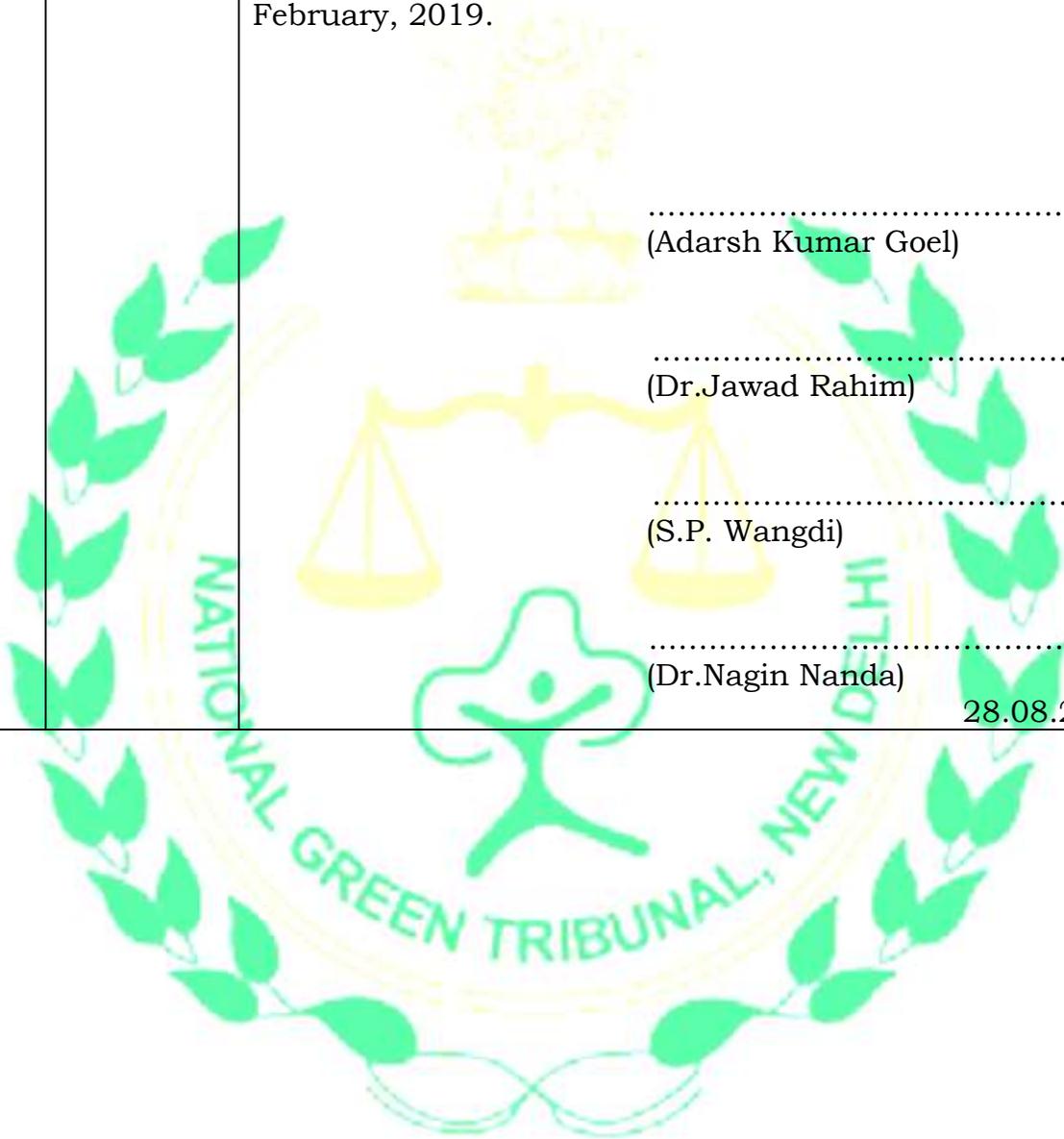
	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>irreversible ecological damage. Therefore no further installation of RO plants in affected villages is recommended. Instead water supply should now be practiced using water tankers as an interim measure. Piped water supply from Rihand reservoir will be a longterm solution for drinking water supply to fluoride and mercury affected villages.</p> <p>d) In the past Rihand reservoir was polluted by the major industries in the area such as thermal power plants, coal mines, M/s Aditya Birla Chemicals, Renukoot and M/s Hindalco Industries, Renukoot. Since this reservoir is the only drinking water source in the area, the reservoir needs restoration and protection. A comprehensive study needs to be undertaken to assess the reservoir's water and sediment quality and to delineate water and sediment remediation and restoration measures on Polluter Pays Principle. All the streams and nullahs joining the reservoir need to be intercepted and diverted to save the reservoir from further pollution. CSIR NEERI, Nagpur and/or CSIR-IITR, Lucknow may be entrusted with this study for which both these organizations have the requisite expertise.</p> <p>e) As the patients with clinical manifestations suggestive of fluorosis were also noted to have severe malnutrition, mineral and nutrient supplements for these areas should be ensured by the District Administration. Further, patients with clinical manifestations suggestive of fluorosis must be monitored for their health through a scientific plan of periodic checkup as recommended by KGMU, AIIMS, Bhopal and IMS, BHU. Dental as well as bone fluorosis can be improved, if detected in the early stage. It is also essential to establish a Standard Toxicological Testing and Analysis Laboratory in the region. The earlier recommendation of establishment of Training Centers to train Health care workers including Doctors in KGMU, Lucknow and AIIMS, Bhopal for identifying the sources of diseases due to fluoride/mercury emission/discharge and treating the affected patients must now be done at an early date.</p> <p>f) There is a number of health related issues like silicosis, fluorosis, and the impact of mercury on the people in the area, which need to be examined in detail. The District Administration is urgently required to identify long term project needs with proper funding and adequate manpower under "Polluter Pays Principle" for estimating the magnitude of health related problem with special reference to silicosis, fluorosis, and the impact of mercury on the people in the area.</p> <p>g) The District Administration of both the States are required to hold monthly meetings of all the stakeholders of Singrauli area, prepare minutes signed by the Stake holders and place it before the Supervisory Committee constituted by NGT in its</p>
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p><i>order dated December 6, 2017.”</i></p> <p>10. The above report was filed before this Tribunal on 03.04.2018. No objection appears to have been filed by any party in spite of sufficient opportunity being available. Learned counsel for respondent no. 17 states that <i>Aditya Birla Chemicals Limited</i> has filed objection to the effect that it cannot divert the drain in terms of the recommendations. If drain is required to be diverted to prevent pollution, the same must be done unless an alternative is suggested. Thus, we do not find any merit in the objection and the same is rejected. All the recommendations as quoted above are accepted. If any of the industries fails to comply with the recommendations, the same may have to be shut down. The application is accordingly disposed of.</p> <p>11. To comply with the above directions, we consider it appropriate to constitute an oversight Committee as follows:</p> <ol style="list-style-type: none"> a) Justice Rajesh Kumar, Allahabad High Court and former Chairman of Debt Recovery Appellate Tribunal - Chairman. b) Representative of Central Pollution Control Board - Member. c) A representative each from the Madhya Pradesh Pollution Control Board and Uttar Pradesh Pollution Control Board – Members. d) District Magistrates of Districts Sonebhadra and Singrauli - Members.
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>12. The Committee will take the following steps:</p> <ul style="list-style-type: none"> • Take stock of all actions taken so far. • Prepare time bound action plan to deal with the problem and ensure its implementation. <p>13. The Committee may requisition services of such technical experts as may be necessary and may also carry out visits to sites whenever necessary. They will be entitled to all logistic support for performing these functions which shall be provided under the directions of the Chief Secretary, Madhya Pradesh and Chief Secretary, Uttar Pradesh</p> <p>14. The Monitoring Committee may also set up website for receiving and giving information on subject.</p> <p>15. The Monitoring Committee may also involve educational institutions for awareness and feedback about results.</p> <p>16. All authorities concerned in the States of Madhya Pradesh and Uttar Pradesh shall cooperate and coordinate with the Monitoring Committee. The Committee can seek such technical assistance as may be required from any relevant authority.</p> <p>17. The Chief Secretary, Madhya Pradesh and Chief Secretary, Uttar Pradesh to provide all facilities to said Committee to perform its functions. The Committee may send its periodical reports to the Tribunal by E-mail.</p> <p>18. The Committee may assume its charge within two weeks from today. The Committee may prepare Action</p>
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>Plan which shall have targets of ensuring compliance. It may meet at such intervals as considered appropriate but twice in every month and fix targets for compliance.</p> <p>19. The Committee will be free to take up all incidental issues. The Committee will be free to seek any further directions from this Tribunal by E-mail.</p> <p>20. The Chief Secretary of the State of Madhya Pradesh may determine remuneration of the Chairman in consultation with him and the Chief Secretaries of Madhya Pradesh and Uttar Pradesh will also provide all logistic support including security of needed for their proper functioning.</p> <p>21. The District Magistrates of Districts Sonebhadra and Singrauli will be the co-coordinators for their respective Districts. The Committee may furnish a report of the action taken to this Tribunal after three months.</p> <p>22. The Committee will be entitled to take the help of the technical experts in execution of this order. The Committee may frame its action plan for implementation within one month from today and implementation may be completed within six months as far as possible. The timelines may be laid down. A copy of the action plan may be sent to this Tribunal. Thereafter, reports may be sent at least once in two months. The Committee may also assess the damage to the environment as well as to the individuals as already suggested in the Report.</p> <p>The application is disposed of.</p> <p>A copy of this order be sent to the concerned</p>
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	<p>Item Nos. 06 & 07</p> <p>August 28, 2018</p> <p>R</p>	<p>authorities by e-mail and by post.</p> <p>The applicant may also send a complete set of papers to the members of the Committee.</p> <p>The Committee may send a report of the action taken to this Tribunal by e-Mail at filing.ngt@gmail.com.</p> <p>The report may be placed for consideration on 15th February, 2019.</p> <p>.....,CP (Adarsh Kumar Goel)</p> <p>.....,JM (Dr.Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr.Nagin Nanda)</p> <p style="text-align: right;">28.08.2018</p>
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MINUTES OF MEETING OF THE OVERSIGHT COMMITTEE, NGT, U.P. LUCKNOW HELD ON 18.10.2021 IN O.A. NO. 113 of 2020 IN RE: RAMESH CHANDER VERMA & ORS. VS. STATE OF UTTAR PRADESH

(THROUGH VIDEO-CONFERENCING)

**Present: Hon'ble Mr Justice SVS Rathore, Chairman, and
Mr. Anant Kumar Singh, Member.**

Other dignitaries present:

- 1) Mr. Abhisekh Singh, DM, Sonbhadra
- 2) Mr. T. N. Singh, RO, Sonbhadra
- 3) Mr. Rajiv Kumar, GM, NCL Khadia Project
- 4) Mr. Ajay Sharma, UPPCB.

The issue involved in this case is regarding development of a 'dwarf wall' and 'Overburden dump' (stack of mined coal, mixed with fly ash) by Northern Coalfield Limited, Kharia Project, Shakti Nagar, Sonbhadra, U.P., near the railway residential area. On account of such activity, dust is generating all around thereby affecting the air quality and the health of the inhabitants. This activity falls in 'Red' category, having serious environmental impact.

Vide order dated 14.10.2020, the Hon'ble NGT sought an action taken report from the UPPCB and DM, Sonbhadra. Again, the UPPCB has filed its report dated 27.02.2021 with reference to inspection conducted on 23.01.2021. It is stated that:

"The open cast mining is being done as per report dated 14.05.2020 of the Northern Coalfields Limited. 10% of the coal is transported through the road and at a distance of 800 meters from the mine, dwarf wall (railway siding) was being constructed for transportation of 90% of the coal by train. At a distance of 100 meters, overburden dump of 50 meters height exists. On some part of the dump plantation has been done. However, the normal life is not disturbed by the said dump. Recommendations have been made to plant more trees to mitigate the pollution caused by dust and send compliance report to the State PCB. It is further recommended that during construction

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of the dwarf wall, water sprinkling may be undertaken. Water discharged in the drain may be reused during construction. C&D waste management Rules be observed during the construction."

The Oversight Committee reviewed the implementation of Hon'ble NGT's order dated 23.08.2021. The Oversight Committee received a compliance report from the General Manager, NCL Khadia Project, just before the meeting on October 18, 2021. According to this report, in the FY 2021-22 (till date), NCL Khadia Project planted 50,000 plant saplings on finalized Overburden dump. The dwarf wall is now at around 66% completion and will be completed by December, 2021. The Oversight Committee also observed that the NCL Khadia Project has followed the directions of Hon'ble NGT.

18-10-2021

18-10-2021

X Anant Kumar Singh

Anant Kumar Singh
 Member, Oversight Committee
 Signed by: ANANT KUMAR SINGH

X SVS Rathore

Justice SVS Rathore
 Chairman, Oversight Committee
 Signed by: SURENDRA VIKRAM SINGH RATHORE

October 18, 2021

Please visit our website: oscngt.upsdc.gov.in for more information.



नोटिंग शीट

Annexure R-3

नार्दर्न कोलफील्ड्स लिमिटेड

विभाग

संबंधित अधिकारी

संबंधित लिपिक

विषय: नार्दर्न कोलफील्ड्स लिमिटेड के निदेशक मण्डल की 279वीं बैठक जो दिनांक 24 सितम्बर 2022 को श्रीनगर में सम्पन्न हुई के मिनट्स के अंश।

नार्दर्न कोलफील्ड्स लिमिटेड के निदेशक मण्डल की 279वीं बैठक जो दिनांक 24 सितम्बर 2022 को श्रीनगर में सम्पन्न हुई के मिनट्स के प्रासंगिक अंश नीचे पुनः पेश है:-

Item No.279/C-4 Approval for Addendum to the Project Report for Khadia Expansion OCP (10 to 16 Mtpa, Peak-20 Mtpa).

i) The Board noted the information as brought out in the Agenda Note.

ii) Shri V.K. Singh, GM(CP) and Shri Shivraj Singh, CM(CP) apprised the subject proposal before the Board and stated that:-

a) Project Report for Khadia Expansion OCP (10 to 16 Mtpa) was approved by NCL Board in 265th meeting held on 25th June 2021. Further, calendar plan for peak capacity of 20 Mtpa was approved by the NCL Board in 267th meeting held on 19th Sep 2021.

b) Coal Handling Plant (CHP) of 10 Mtpa capacity exists in the Khadia mine (Phase-I: 4 Mtpa and Phase-II: 6 Mtpa).

Incremental 6 Mtpa CHP capacity has been proposed in the Project Report (PR) to be augmented by:

- Eastern stream - Krishnashila side for surface miner coal from East Section (3 Mtpa)
- Western Stream - Jhingurdah side for surface miner coal from West Section (3 Mtpa)

प्र. लि. सं./Receipt No. 2126
सीपी विभाग/C.P. Deptt.
दिनांक/Date: 1/11/22

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[Signature]
07/11/22

Estimated capital requirement for this 6 Mtpa incremental CHP is Rs. 407.42 Crores as per the approved PR (including installation of secondary sizer in existing Phase-I CHP of 4 Mtpa for -100mm size).

- c) During the meeting of Expert Appraisal Committee of MoEF for grant of ToR, it was advised to minimize the hauling of coal by trucks and a specific condition has been mentioned in the ToR for grant of Environmental Clearance for Khadia Expansion OCP as quoted below:

“Inpit conveyer belt with silo loading should be proposed and installed for transportation of coal till railway siding”.

- d) Accordingly the eastern stream of the CHP proposed in the PR, which was falling beyond the pit limits of Khadia Expansion OCP, has been proposed to be replaced by an in-pit conveying system with loading arrangement through RLS on the old KBJ rail line.
- e) Further, western stream has been proposed to be utilized as a separate linear project for handling peak production of Dudhichua, Bina and Khadia OCPs.
- f) Addendum of the Project Report for Khadia Expansion OCP (10 to 16 Mtpa, peak – 20 Mtpa) has been prepared to incorporate the above changes.

iii) It was further stated that:-

- a) In context of Eastern Stream, the proposed location of Krishnashila side CHP stream has been relocated to a position situated in the central haul road of Khadia OCP near to the coal face. Receiving pit is situated in the central haul road for further transportation by conveyer belt to proposed ground

bunker located at wharfwall for loading of coal in railway wagon by Silo/Surge Bin located on old KBJ line. Capacity of this CHP has been proposed as 4 Mtpa with estimated capital expenditure of Rs. 237.44 Crores. Further, there is a proposal to enhance the capacity of existing CHP of Khadia OCP by 2 Mtpa by simultaneous operation of the stand-by stream of 6 Mtpa Phase-II CHP.

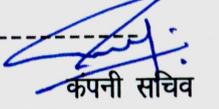
b) Proposed receiving pit of the western stream is at the junction of surface boundaries of Dudhichua, Khadia and Bina-Kakri Amalgamation OCPs. The Surface Miner Coal from Dudhichua, Khadia and Bina-Kakri Amalgamation OCPs can be easily fed into this conveying-storage-loading system. In view of the above, it is proposed to consider the conveying-storage-loading system from tri-junction of surface boundaries of Dudhichua, Khadia and Bina-Kakri Amalgamation OCPs to Jhingurdah Wharfwall siding separately as a Linear Project catering to these mines/projects instead of a system for Khadia Expansion OCP only. The Western Stream CHP (Jhingurdah side) is being proposed as linear project for cluster of mines and therefore needs approval as per the centralized Scheme prepared for this purpose. Tentative cost estimate for this linear project will be Rs 390 Crores including capital cost for CHP, railway track, cost for diversion of forest land and O&M for 5 years.

iv) During the course of discussion, it was confirmed that Mine Closure Plan is incorporated in the approved Project Report of Khadia Project in line with MoC guidelines. Further, the Mine Closure Cost has been estimated as per guidelines and annual deposit to ESCROW Account has been determined for the life of mine. Board of Directors advised for a Presentation on Mine Closure Planning in the next meeting.

v) Board of Directors, after detailed deliberation, unanimously approved the addendum to the Project Report for Khadia Expansion

OCP (10 to 16 Mtpa, peak – 20 Mtpa) with incorporation of following:-

- a) Change in eastern stream of CHP for handling 4 Mtpa Coal with rapid loading system on old KBJ rail line; &
- b) Converting the western stream of CHP to a separate linear project with estimated cost of Rs. 390 Crores for utilisation by a cluster of Projects viz. Khadia, Dudhichua and Bina, as brought out in the agenda note.


कंपनी सचिव

एनसीएल/बोर्ड/7सी/279/498

दिनांक 29/10/2022

✓ महा प्रबंधक(सीपी), एनसीएल

प्रतिलिपि:

निदेशक(तक/यो0परि0), एनसीएल।

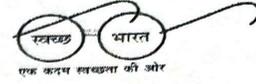
नॉर्दर्नकोलफील्ड्सलिमिटेड
खड़िया परियोजना
(मिनिरात्र कंपनी)
(कोल इण्डियालिमिटेड की अनुषंगी कंपनी)



Northern Coalfields Limited
Khadia Project
(Aminiratna Company)
(A subsidiary of Coal India Limited)



Office of General Manager



Annexure R-4

CIN- U10102MP1985GOI003160

An ISO: 9001, ISO: 14001 & OHSAS: 18001 Certified Company

थाना-शक्तिनगर, जिला-सोनभद्र (उप्र) पिन-231222/ Thana-Shaktinagar, Dist. Sonebhadra (U.P.) Pin- 231222
Phone: 05446- 232274, (FAX) 05446- 232274 Email: cgm.khd@gmail.com, website : www.nclcil.in

Ref: NCL/KHD/GM/Min/Env/Wharfwall/23-24/ 9860

Date: 06 May 2023

To,

**The District Magistrate
Sonebhadra (U.P)**

Sub:- Continued Law & Order problem created by local villagers of Nautola during construction of wharfwall and Rail Connectivity executed by East Central Railway.

Ref:- NCL letter dated 05.08.2022, 16.02.2023.

Sir,

Apropos to the above, I would like to re-draw your kind attention about the law and order problem created by the local villagers of Nautola at construction site of Wharfwall and Rail Connectivity at Khadia project of NCL, executed by the East Central Railway (ECR). The ECR & Northern Coalfields Ltd (NCL), Khadia Project has time and again been requesting for police protection for resumption of construction work by the ECR for which several meetings, including recent meetings on 07.04.2023 & 26.04.2023 were also held between local villagers, NCL management and local authorities. The Hon'ble National Green Tribunal has been directing the NCL Management for completion of the Construction of the wharfwall at the earliest but all efforts of the NCL management and ECR for resumption of construction work has not worked out. For the purpose of reduction in road transportation of remaining coal, to minimize the pollution associated with road dispatch and decrease in traffic density "construction of wharfwall & allied works" was awarded vide letter dated 26.09.2020. The said construction of wharfwall and rail connectivity is in national interest as it would sub-serve the purpose of minimizing the pollution by adopting Rail Transportation of Coal.

The Construction of wharfwall was started but local villagers created hindrance on 21.12.2020 under misconception of increase in pollution and other local issues. Efforts were made to remove hindrance with the help of local police in the period of December, 2020 to February, 2021. It was also presented to local villagers that rail dispatch of coal is more eco-friendly than road dispatch and construction of wharfwall will result into better environmental scenario, but the matter could not be resolved. Thereafter, the matter

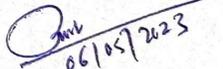
was apprised to all the local authorities/administrations during the period of March 2021 to May, 2021 regarding benefits of wharfwall and proposed pollution control measures. In connection with the continued hindrance, various communications and meeting were held including a meeting of Director (Technical / P&P) NCL Singrauli along with General Manager (Civil), NCL Singrauli & General Manager, Khadia area with DM, Sonebhadra at Collectorate Office, Sonebhadra on 31.08.2021. In this meeting NCL Management apprised that Scientific study of the air pollution impacts associated with the operationalization of Wharf-Wall and Pollution control/ mitigation measures to minimize pollution load is being undertaken by IIT-BHU, and requested to help in arriving at a positive solution. IIT BHU has submitted the report and it will be implemented during operationalization of Wharf-Wall.

The issue of non-resumption of construction work of wharfwall and Rail Connectivity at the Khadia Project site is under consideration before the Hon'ble National Green Tribunal, Principal Bench in O.A No. 113/2020 and Hon'ble Supreme Court of India in Civil Appeal No. 1528/2023.

In view of the above, it is requested to kindly do the needful so that the construction of wharfwall along with rail connectivity is carried out without further delay.

Thanking you sir,

Yours faithfully


06/05/2023
General Manager
Khadia Area, NCL


Copy to:-

- 1) Superintendent of Police, Sonebhadra, U.P.

नॉर्डन कोलफील्ड्स लिमिटेड
(मिनी रत्न कंपनी)
(कोल इण्डिया लिमिटेड की अनुषंगी कंपनी)



Northern Coalfields Limited
(A Miniratna Company)
(A subsidiary of Coal India Limited)

अनुसंधान एवं विकास विभाग/Research and Development Department

CIN- U10102MP1985GOI003160

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पोस्ट-सिंगरौलीकोलियरी, जिला- सिंगरौली, म.प्र., पिन 486889 /Post- Singrauli Colliery, Distt- Singrauli, M.P. PIN-486889

Phone: 07805- 255372, email: hord.ncl@coalindia.in website : www.nclcil.in

Ref. No. NCL/SGRL/R&D/2022-23/261

Date: 10.01.2023

To

Sujit Kumar Mandal

Chief Scientist, CSIR CIMFR

Dhanbad

Sub: Work Order for the Study titled "*Feasibility study in utilizing fly ash in the running Nigahi mine of NCL in view of the recent Fly Ash Notification dated 31st December, 2021 through CSIR CIMFR, Dhanbad*"

Dear Sir,

With reference to this letter you are being informed that the subject study proposal with an Award Value of Rs. 75.52 Lakhs (including 18% GST) has been competently approved by NCL.

You are hereby requested to commence the study as per the following Scope of Work:

Scope of Work:

1. Feasibility study of mine for dumping overburden mixed with pond ash (dry and wet/slurry) in the running mine dumps.
2. Study the properties of different proportion of mix design (overburden and pond ash) in both dry and slurry form with pond ash from all the neighbouring Thermal Power Plants.
3. Study of physico-chemical properties of pond ash of all the neighboring Thermal Power Plants.
4. Carrying out the field trial study of OB Fly Ash mixing in running mine.

Duration of study:

1. Laboratory Study: 4 Months
2. Field Trial: April to September (includes Monsoon and Non-Monsoon Season)

Date of Commencement of Study: 10.01.2023

Total Study Cost:

Cost of Study: Rs 64,00,000.00 only
GST @ 18% on above: Rs 11,52,000.00 only
Total Cost the study: Rs 75,52,000.00 only (Including GST)

Study Report:-

1. The study report should cover all the scope of work.
2. Draft study report must be discussed thoroughly with the concerned officials well before submission of final study report.
3. The final study report shall be submitted in 05 copies along with scanned copy / soft copy should also be given to the mail address viz. gmenv.ncl@coalindia.in and hord.ncl@coalindia.in.
4. Final report should be signed by the Principal Investigator / Project Leader representing the CSIR-CIMFR Dhanbad.

नॉर्दर्न कोलफील्ड्स लिमिटेड
(मिनी रत्न कंपनी)
(कोल इण्डिया लिमिटेड की अनुषंगी कंपनी)



Northern Coalfields Limited
(A Miniratna Company)
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अनुसंधान एवं विकास विभाग/Research and Development Department

CIN- U10102MP1985GOI003160

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Phone: 07805- 255372, email: hord.ncl@coalindia.in website : www.nclcil.in

Terms & Conditions:

1. Payment Terms:

- 50% payment of the project cost to be paid in advance through online transfer in the CIMFR's bank account.
- The balance 50% amount will be paid on submission of draft report and before submission of final report.

2. Accommodation and Fooding:

Nigahi project to arrange the accommodation and fooding for the subject work.

3. All terms and conditions as per the proposal is attached at Annexure-I

You are also requested to please submit

- Acknowledgement and submit the acceptance of this work order within 07 days from the date of issuance of this work order.
- Requirement of fund.
- Certificate under section 197 of Income Tax Act for exemption from TDS deduction.

If the required TDS exemption certificate is not submitted, then the fund will be released to CSIR-CIMFR, Dhanbad after the deduction of TDS.

Encl: Complete Proposal.

P. D. Rathi
10/1/23

P. D. Rathi

General Manager (R&D and NI)
Northern Coalfields Limited,
Singrauli

Copy to:-

- Director, CSIR-CIMFR Dhanbad
- General Manager (CP), NCL Singrauli
- General Manager (Env), NCL Singrauli
- General Manager, Nigahi Area, NCL
- General Manager (Finance), NCL Singrauli
- AFM, NCL Singrauli
- Staff Officer (Mining), Nigahi Area, NCL

Copy to (for kind information):-

- Director (Tech./Oprn.), NCL Singrauli
- Director (Tech./P&P), NCL Singrauli
- Director (Finance), NCL
- TS to CMD, NCL Singrauli

संविदा प्रबंधन कोष / Contract Management Cell



CIN- U10102MP1985GOI003160

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Phone: 07805- 266671. (FAX) 266640 email: gmc.mc.ncl@coalindia.in website : www.nclil.in

Annexure R-6

Ref.No.: NCL/SGR/CMC/KHADIA CHP/ LOA/2024/ 02

Date: 08.01.2024

To,
M/s. S. K. Samanta & Co. Pvt. Ltd.,
2/5, Sarat Bose Road
Kolkata - 700020.
E-mail id: kol@sksl.in

Sub: Letter of Acceptance (LoA) / Work order for the work of: "Planning, Design, Engineering, Construction, Fabrication, Erection, Supply, Installation, Testing, Trial Run and Commissioning of Coal Handling Plant of 4 MTPA consisting of all Civil, Structural, Electrical and Mechanical Works and all other accessories and facilities required to make it complete in all respects on turnkey basis and Operation and Maintenance of plant for five years in Khadia OCP of NCL."

- Ref: 1. NIT No.: GM (CMC)/NCL/NIT/KHD CHP/105 Date: 31.05.2023
2. Tender Id: 2023_NCL_280513_1
3. Your submitted bid with Bid ID: 956949 along with confirmatory documents on www.coalindiatenders.nic.in including Price Justification.

Dear Sir,

With reference to above, this is to communicate the approval of the Competent Authority for award of the subject work to M/s S K Samanta & Co Pvt Ltd for an amount of Rs. 272,69,80,000/- (Rupees Two Hundred Seventy Two Crore Sixty Nine Lakh Eighty Thousand only including GST@18%)

[Capital Cost: Rs. 251,34,00,000/- including GST, Revenue Cost (O&M): Rs. 21,35,80,000/- including GST], subject to the following terms and conditions:

1. PERFORMANCE SECURITY DEPOSIT (PSD) / SECURITY DEPOSIT

You have to deposit a sum of Rs. 11,55,50,000/- (Rupees Eleven Crores Fifty Five Lakh Fifty Thousand only) only as 5% of the Contract Price, within 21 days of issuance of LOA, as per Clause No. 3 'Contract Performance Guarantee/ Security Deposit' of General Terms & Conditions of Contract of the NIT.

Work shall commence only after submission of Performance Security. In case the successful bidder fails to submit the Performance Security within the stipulated time then the award of work shall be cancelled and bidder will be banned for two years from being eligible to submit bids in CIL and its subsidiaries. In addition to the above penal measures, the bidder will not be allowed to participate in the retendering process.

All running on Account bills shall be paid at 95% (ninety five percent) of the executed work value. This 5% (Five percent) deduction towards Retention Money will be the second part of Security Deposit.

नॉर्थन कोयलीफिल्ड लिमिटेड
(विशेष निर्यात कंपनी)
(कोयला विभाग के अधीन)



संविदा प्रबंधन कक्ष / Contract Management Cell



CIN- U10102MP1985GOI003160

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पते: सिंगरौली कोयला, डिस्ट. सिंगरौली, म.प्र., पिन 480009/ Post- Singrauli Colliery, Distt- Singrauli, M.P. PIN-486889
Phone: 07805- 266671, (FAX) 266640 email: gmcnc.ncl@coalindia.in website : www.nclcil.in



2. Goods & Service Tax :

The payment of the Goods & Service Tax shall be governed as per the Terms and Conditions of the NIT / Tender document.

3. Contract Period:

The contract period for this work shall be 2555 days from the date of commencement which shall be within 30 (Thirty) days of issue of letter of acceptance and submission of Performance Security or from 7th day of handing over of the site for the first activity as per PERT network chart, whichever is later.

• Work shall commence only after submission of Performance Security.

2555 days shall comprise of:

- 730 days for Construction including Trial Run, PGT & Commissioning of the Plant
- 1825 days (05 years) for Operation & Maintenance of Plant during Defect Liability Period.

The date of uploading of this Letter of Acceptance / Work order on e-Procurement Portal (www.coalindiataenders.nic.in) shall be treated as the date of receipt of this LOA / Work order by you.

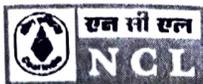
4. Price Variation (Escalation/De-escalation) :

- That the contract price shall remain firm without any price variation due to escalation for the portions of survey, geo-engineering investigations, design and engineering and supply of equipments, plant and machineries as envisaged in the scope of work and the price agreed thereon as per the contract except the statutory increase/decrease in taxes and duties such as GST, GST (Compensation to State) Cess etc.

If the contract is to be extended beyond the stipulated period for completion of the work due to fault on the part of the contractor escalation on prices should not be allowed further if not provided otherwise in the accepted contract.

- That for the portions of Civil and Structural Works and Erection and commissioning Works of the Plant and machineries, the Price Variation due to Escalation shall be in compliance with Cl.No.2 of Additional Terms & Conditions of Contract (Price Variation Clause).
- That the base date for working out Escalation/De-escalation is 14.07.2023 i.e. the last date of submission of bid.
- That the ceiling on price variation due to escalation covered under clauses mentioned hereinbefore on the contract, limited to 10% of that portion of Contract Price for which price variation is applicable.

नॉर्दन कोलफील्ड्स लिमिटेड
(मिनिरतना कंपनी)
(कोल इण्डिया लिमिटेड की अनुषंगी कंपनी)



Northern Coalfields Limited
(A Miniratna Company)
(A subsidiary of Coal India Limited)

संविदा प्रबंधन एकाइ (Contract Management Cell)



CIN- U10102MP1985GOI003160

An ISO: 9001, ISO: 14001 & OHSAS: 18001 Certified Company

पते- सिंगरावली कोलियरी, जिला- सिंगरावली, म.प्र., पिन 486889/ Post- Singrauli Colliery, Distt- Singrauli, M.P. PIN-486889

Phone: 07805- 266671, (FAX) 266640 email: gmcme.ncl@coalindia.in website : www.nclCIL.in

Phone: 07805- 266671, (FAX) 266640 email: gmcme.ncl@coalindia.in website : www.nclCIL.in

5. EMPLOYMENT OF LABOUR:

The provisions / guidelines as incorporated in the NIT and Bid Document with regard to "Employment of Labours" and the wages & others to be paid shall be followed.

6. **INSURANCE:** That you have to take necessary insurance policies required for this work, in compliance with the provisions of NIT and Bid Document, in the joint name of Northern Coalfields Limited (NCL) and the Contractor, M/s. S. K. Samanta & Co. Pvt. Ltd.
7. **SAFETY:** That you will be responsible for any damage resulting from your operations. You will also be responsible for protection of all persons including members of public and employees of the NCL and the employees of other contractors and sub-contractors and all public and private property including structures, buildings, other plants and equipment and utilities either above or below the ground. You will ensure provision of necessary safety arrangement/equipment such as barriers, sign-boards, warning lights and alarms, etc. to provide adequate protection to persons and property. You will be responsible to give reasonable notice to the Engineer-in-Charge and the owners of public or private property and utilities well in advance, when such property and utilities are likely to get damaged or injured during the performance of your works and shall make all necessary arrangements with such owners, related to removal and/or replacement or protection of such property and utilities.
8. That the matters relating to any dispute or differences arising out of this work order and subsequent contract agreement entered, based on this tender and work order shall be subject to the jurisdiction of District Court, Waidhan (Singrauli) Madhya Pradesh only.
9. That you have to submit a detailed PERT network within the time frame agreed as per NIT consisting of adequate number of activities covering all key phases of the works such as design, procurement, manufacturing, shipment, field erection activities etc. within fifteen (15) days after the date of acceptance of tender in compliance with Clause No.6 of General Terms & Conditions of Contract.
10. That the Engineer-in-Charge (EIC) for this work will be **Area General Manager, Khadia project**, NCL certifying payment due to the contractor, valuing variations to the contract, awarding extension of time and valuing compensation events. Engineer-in-charge/Designated Officer-in-charge may further appoint his representatives i.e. another person / Project Manager or any other competent person and notify to the contractor who is directly responsible for supervising the work being executed at the site, on his behalf under the Delegation of Powers of the company. However, overall responsibility, as far as the contract is concerned will be that of the Engineer-in-charge/Designated Officer-in-charge.
11. No sub-letting of the work as a whole by the contractor is permissible. Prior permission is required to be taken from the principal employer for engagement of sub- contractors in part work/piece rated work.
12. That the Paying Authority for this work will be the **Area Finance Manager, Khadia NCL**.
13. Schedule of Quantity / BOQ for this work is enclosed.

नॉर्थ कोलफील्ड लिमिटेड
(पब्लिक लिमिटेड कंपनी)
(कोल इंडिया लिमिटेड की सहायकी कंपनी)



Northern Coalfields Limited
(A Miniratna Company)
(A subsidiary of Coal India Limited)

सहायता प्रबंधन कोष / Contract Management Cell



CIN- U10102MP1985GOI003160
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पेस्ट- सिंगरावली कोलियरी, जिला- सिंगरावली, म.प्र., पिन 486889/ Post- Singrauli Colliery, Distt- Singrauli, M.P. PIN-486889
Phone: 07805- 266671. (FAX) 266640 email: gmcnc.ncl@coalindia.in website : www.nclcl.in

14. That you have to submit the following documents within 30 days of issue of this LOA/Work Order (except Performance Security which is to be submitted within 21 days) for execution of Agreement:

- PSD amounting to Rs. 11,55,50,000/- (Rupees Eleven Crores Fifty Five Lakhs Fifty Thousand only) as per Cl. No.1 of LOA i.e. within 21 days.
- Non Judicial Stamp Paper of Rs. 500.00
- Site handover and takeover certificate, jointly signed by Engineer-in-Charge and the Contractor.
- Labour License as per Contract Labour (Regulation & Abolition) Act, 1970.
- Insurance Policy certificates (Worker's Compensation Policy & All Risk Policy) duly pledged in the name of NCL.
- CMPF / EPF Registration certificate.
- Valid H.T. Electrical Contractor's license
- Detail Time and Progress Chart, jointly signed by Engineer-in-Charge and the Contractor.
- List of Technical & Supervisory Personnel to be deployed for execution of the work.
- Integrity Pact on Non Judicial Stamp Paper of Rs. 500.00
- Copy of PAN card
- Copy of GST Registration Certificate
- Copy of Certificate of Incorporation, Memorandum and Article of Association alongwith Power of Attorney for person signing the contract agreement.
- E-payment Mandate form as per NIT
- Any other document, if required, as per NIT / Tender document.

15. All other terms and conditions as detailed in the NIT and Bid Document and subsequent clarifications made thereof with regard to bidder's queries and uploaded on e-Procurement portal shall be followed and form an integral part of the contract agreement.

Enclosure: Schedule of Quantities / BOQ.

For further instructions, please contact Area General Manager, Khadia NCL.

Yours faithfully

General Manager (CMC)

Copy for kind information to:

1. CMD, NCL
2. Director (Technical)/Operations
3. Director (Technical)/P&P, NCL
4. Director (Finance), NCL
5. CVO, NCL

नॉर्थन कोलफील्ड्स लिमिटेड
(मिनिरात्रा कंपनी)
(कोय इण्डिया लिमिटेड की अंतर्गत कंपनी)



Northern Coalfields Limited
(A Miniratna Company)
(A subsidiary of Coal India Limited)



खडिया प्रबंधन सेल / Contract Management Cell



CIN- U10102MP1885GOI003160

An ISO: 9001, ISO: 14001 & OHSAS: 18001 Certified Company

पते: सिंगरावली कोलिअरी, जिला: सिंगरावली, म.प्र., पिन 486000/ Post- Singrauli Colliery, Distt- Singrauli, M.P. PIN-486000

Phone: 07805- 266671, (FAX) 266640 email: gmcmc.ncl@coalindia.in website : www.nclil.in

Distribution:

1. GM, Khadia project
2. HOD, Board Secretariat.
3. GM (E&M) / HOD, NCL
4. GM, CP NCL
5. GM, Civil, NCL
6. GM (P&IR) NCL
7. GM (E&M), NCL
8. HOD (M&S) NCL
9. GM(Finance), I/C(C&B), Internal Audit, NCL
10. AFM, Khadia

Office of the General Manager
Khadia Area



CIN- U10102MP1985GOI003160

An ISO: 9001, ISO: 14001 & OHSAS: 18001 Certified Company

Annexure R-7

Post- SHAKTINAGAR Distt- SONEBHADRA U.P. PIN-231222
Phone: 05446- 232274, (FAX) 232274 email: gm.khd@gmail.com website : www.nclcil.in

No. NCL/KHD/GM/24/4194

Dated: 15.03.2024

To,
M/s S.K. Samanta & Co.(P)Ltd.
Suite 4A.2/5, Sarat Bose Road
Kolkata -700020
E-mail id:kol@sksl.in

Sub: Regarding Handing over of site for the work of Planning, Design, Engineering, Construction, Fabrication, Erection, Supply, Installation, Testing, Trial run and Commissioning of Coal handling Plant of 4MTPA consisting of all Civil, Structural, Electrical & Mechanical works and all other accessories and facilities required to make it compete in all respect on Turnkey basis and Operation & Maintenance of plant for five years in Khadia OCP of NCL.

- Ref: i) NIT No: GM(CMC)/NCL/NIT/KHD CHP/105 dated 31.05.2023
ii) LOA No. NCL/SGR/CMC/KHADIA CHP/LOA/2024/02 dated. 08.01.2024
iii) Letter No. NCL/KHD/GM/NewCHP/4181 dated 06.03.2024
iv) Letter No. NCL/SGR/CMC/23-24/79 dated 06.03.2024

Dear Sir,

Consequent to Joint inspection by the representatives of NCL, Khadia and M/s S.K.Samanta &Co.Pvt.Ltd on dt.11.03.24, the site has been handed over as per LOA Clause no.3. The date of commencement of the work shall be reckoned from 17.03.2024 and accordingly date of completion of construction shall be 16.03.2026.

You are requested to take-up the work observing all formalities as per LOA and commence the work only after submission of Performance Security.

Yours faithfully.

15/03/2024
Area General Manager
Khadia Area

Copy for kind information to:
1. TS to DT (P&P),NCL HQ

Copy to :

- 1) GM(E&M),NCL HQ
- 2) GM(CMC),NCL HQ
- 3) GM(C)/HOD, NCL HQ
- 4) SO(Mining), Khadia Area
- 5) Project Officer, Khadia
- 6) S.O.(Civil) , Khadia Area
- 7) S.O.(E&M) , Khadia Area
- 8) A.F.M, Khadia Area
- 9) S.O.(P) , Khadia Area

For needful action
for administration of Contract.

IN THE SUPREME COURT OF INDIA

(CIVIL APPELLATE JURISDICTION)

CIVIL APPEAL NO. 1528 OF 2023

IN THE MATTER OF:-

NORTHERN COALFIELDS LTD.

KHADIA PROJECT

....APPELLANT

-VERSUS-

STATE OF UP AND ANR

...RESPONDENTS

STATEMENT OF OBJECTION ON BEHALF OF THE
RESPONDENT NO.2

PAPER – BOOK

(FOR 'INDEX' PLEASE SEE INSIDE)

ADVOCATE FOR RESPONDENT- MANISH TIWARI

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2.	<u>Annexure-R/1:</u> True Copy of Memo of Civil Miscellaneous Writ Petition No 2243 of 2023 filed before High Court of Judicature at Allahabad dated nil	10 - 86
3.	<u>Annexure-R/2:</u> True Copy of Counter Affidavit filed by the Northern Coalfields Limited, Khadia Project in Civil Miscellaneous Writ Petition No 2243 of 2023	87 - 104

1. The present Civil Appeal is misconceived and liable to be rejected as the Hon'ble National Green Tribunal has rightly held that the appellant is causing pollution and directed the appellant to pay 5 crore rupees, however the answering Respondent is submitting most respectfully that that validity of construction of wharf wall is a subject matter of Civil Miscellaneous Writ Petition No.2243 of 2023 pending before the Hon'ble High Court of Judicature at Allahabad wherein the very initiation of project is subject matter of the proceedings.
2. It is most respectfully submitted that proceedings before the Hon'ble National Green Tribunal was initiated *suo motu* by the Hon'ble National Green Tribunal on the basis of one letter dated 08.06.2020 which was addressed to the Chief General Manager of NCL Khadia Project by the answering Respondent, from the perusal of record it appears that this letter was eventually endorsed to the Hon'ble National Green Tribunal which eventually converted this the Original Application No, 113 of 2020. however, it is most respectfully submitted that the answering Respondent was not heard by the Hon'ble National Green Tribunal during the proceedings nor the answering Respondent was informed of the proceedings.
3. It is most respectfully submitted that NTPC had transferred 367.464 acre land to the East Railway for the construction of Karela -Bina- Jayant railway line but from 1977 onwards the name of the railways have not been entered into the revenue records till date and in the revenue records these lands are in the

name of NTPC and in regard to transfer of land in the name of railways many exercises/communications were taken place between the authorities concerned but no result till date. It is further submitted that NTPC had made several communications on 27.10.2004, 11.12.2007 and 21.3.2011 to the East Central railway in regard to transfer/mutation of 367.484 acre land which has been transfer to the railways for construction of Karela --Bina- Jayant railway line and the rehabilitation of land oustees of railways but no any action in regard to transfer /mutation has been taken by railways subsequently NCL from 1990 onwards was demanding some land from railways for the construction of CHP Coal Handling Plant in the close proximity of railways which is included in 367.4 acre land transferred by NTPC to the railways but the name of the railways have not been entered into revenue records

4. it is most respectfully submitted that 87 project affected families/land oustees have been granted residential plots at Nau Tola Village Khadia Pargana Singrauli Tehsil Duddhi District Sonebhadra by the railway department in lieu of their land/house acquisition during 1977 to 80 for the construction of Karela --Bina- Jayant railway line under the schemes of Rehabilitation/Resettlement along with compensation but NCL Khadia Project Khadia had started its operation and from 1990 onwards they were trying to construct CHP coal Handling Plant Unit/Wharf wall /Coal Loading unloading point in the close proximity of residential plots of the answering Respondent and others which is the land of the railways and have been allotted

to them through Patta duly signed by Tehsildar Duddhi, District Mirzapur (Now Sonebharda) and railway authorities.

5. It is very relevant to mention here that NCL Khadia Project had started dumping its over burden just 50 mtr away from the densely populated residential area of the answering Respondent and other residents having population of more than 10000 situated at Village Khadia Nau Tola Tehsil Duddhi, District Sonebhadra and in this regard several complaints have been made by the answering Respondent and other elected representatives such as Gram Pradhan of Village Khadia before the authorities concern thorough representation and also they have approached personally before the Chief General Manager Khadia Project Khadia, District Magistrate Sonebhadra, SDM Duddhi and other concern authorities but no any action has been taken by the authorities concern. The Gram Pradhan of Village Khadia had communicated in this regard before the Chief General Manager NCL Khadia Project Shaktinagar- Sonebhadra serving its copies to District Magistrate Sonebhdadra and other concern authorities on 22.5.2020 and also handed over memorandum to concern authorities personally also in regard to which news item had also been published in various Newspapers.
6. it is most respectfully submitted that in the month of May 2020 Appellant have started construction proceedings of Wharfwall/Coal Loading unloading point at Nautola Village Khadia Pargana Singrauli Tehsil Duddhi District Sonebhadra on

the land/plots allotted to the answering Respondent and other allottees by railway department under the Rehabilitation/Resettlement schemes in lieu of land/house acquisition for the construction of Karela --Bina- Jayant railway line in 1977-80 without adopting due procedures of law in regard to acquisition of the land/house/plots of the answering Respondent and others. This was duly opposed and also communication had been made to District Magistrate Sonebhadra serving its copies to other concerned authorities.

7. That, sometime again in 2021 the appellant had started construction of Wharfwall at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra on /near the plot/house/land of the answering Respondent and other allottees without following the due procedures of law in regard to acquisition of their land/houses/plot.
8. This was again vehemently opposed by the answering Respondent and other local resident of the area subsequently NCL authorities have organized meeting with the affected families including answering Respondent and at that time in the presence of SDM Duddhi they have stated that the concern of affected families including the answering Respondent will always be taken care of before starting the construction of wharfwall and if necessary then either project will be shifted elsewhere or acquisition proceedings will be done and the project affected families including will be shifted to a better place.

9. That again in 2022 construction of Wharfwall have been started in full flow despite of objection of the answering Respondent and other local residents. But appellant with the help of the local administration specially police department are threatening local residents and to falsely implicate and criminal cases and sent them jail and surprisingly District administration kept silence over this issue and further a meeting has been organized under the Chairman ship of District Magistrate Sonebhadra but none of the concern of the allottees was addressed.
10. It is most respectfully submitted that the above mention construction of Wharfwall /railway siding /loading unloading point by NCL Khadia Project Khadia without adopting the due procedures of law and without acquiring the land/houses/plots of the land allottees as per Right To Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013 as well as establishment of this wharfwall within close vicinity of densely populated area is also contrary to the provisions of the Environmental Protection Act 1986, Water (Prevention and Control) Act, 1974 and Air Act, Air Prevention And Control of Pollution Act 1981, The Coal Mines Regulation 1957, hazardous Waste (Management and Handling and Transboundary Movement) Rules, 2008 and Standard Operating procedures/guidelines as prescribed by the CPCB.
11. Aggrieved by the aforesaid, the answering Respondent along with other allottees preferred a Civil Miscellaneous Writ

Petition before the Hon'ble High Court of Judicature at Allahabad whereby one of the prayers is against the construction of wharf wall has been challenged and the said Petition is pending for consideration before the Hon'ble High Court. True Copy of Memo of Civil Miscellaneous Writ Petition No 2243 of 2023 filed before High Court of Judicature at Allahabad dated nil is marked herein as **Annexure -R/1** (Pg 10-86)

12. This Hon'ble Court vide order dated 17.03.2023 was pleased to stay the Impugned order of the Hon'ble National Green Tribunal but the said order did nowhere endorse the construction of wharf wall.
13. It is most respectfully submitted that the Appellant herein has filed its counter affidavit before the Hon'ble High Court in the Writ Petition No. No 2243 of 2023 and therein an attempt has been made to use the Supreme Court proceedings as a way to mislead the Hon'ble High Court and thereby getting the entire wharfwall project approved and essentially denying the Petitioners therein relief as regard to their rights of land on which they are residing. True Copy of Counter Affidavit filed by the Northern Coalfields Limited, Khadia Project in Civil Miscellaneous Writ Petition No 2243 of 2023 pending before the High Court of Judicature at Allahabad dated 15.08.2023 is marked herein as **Annexure-R/2** (Pg 87 - 104)
14. It is most respectfully submitted that the Hon'ble National Green Tribunal has rightly imposed cost of Rs 5 Crore on the

Appellant but the said order is no way an endorsement to the construction of wharfwall by the Appellant.

15. It is most respectfully submitted that the Facts raised in the present Civil Appeal are factually incorrect and denied other than what has been admitted by the answering Respondent herein.

16. The answering Respondent reserve the right to argue other important relevant points during the course of arguments with the permission of this Hon'ble Court.

17. The Grounds raise in Paragraph 4 (A) to (V) are misconceived, misplaced and bereft of any merit and they are based on incorrect interpretation of statue. The Grounds raised in the Civil Appeal are further denied in terms of the objections raised in the above paragraphs.

18. The Prayers sought are based on incorrect appreciation of law and facts. Therefore, it cannot be granted. Accordingly, the answering Respondents respectfully prays that the present Civil Appeal deserves to be dismissed with compensatory costs.

DRAWN BY:
MANISH TIWARI
ADVOCATE

Drawn On: 12/02/2024
FILED ON: 23/02/2023



FILED BY:

MANISH TIWARI
Advocate for Respondent No.2

IN THE SUPREME COURT OF INDIA
(CIVIL APPELLATE JURISDICTION)
CIVIL APPEAL NO 1528 OF 2023

IN THE MATTER OF:-

NORTHERN COALFIELDS LTD. KHADIA PROJECT

..... APPELLANT

-VERSUS-

THE STATE OF UTTAR PRADESH AND ANR ..RESPONDENTS

AFFIDAVIT

I, Ramesh Chandra Verma S/o Bhaddar aged about 60 years R/o-
Village-Nautola, Gram Panchayat- Khadia, Block-Myorpor, Uttar
Pradesh-231220 presently at New Delhi, do hereby solemnly affirm
and state as under:-

1. I am the Respondent No 2 in the aforesaid Civil Appeal and I am fully conversant with the facts and circumstances of the case and I am competent to swear and affirm this affidavit.
2. That I have read over statement of objections prepared on my instructions by my counsel and I say that the facts stated therein are true to my knowledge and belief and the submissions are based on legal advice believed by me to be true.
3. That the Annexure of the Statement of Objection are true copies of their respective originals.

रमेश चन्द्र
DEPONENT

VERIFICATION: - I Ramesh Chandra Verma S/o Bhaddar the deponent do verify that the facts stated in the above paragraphs 1 to 3 of my affidavit are true to my knowledge and belief and nothing material has been concealed there from. Verified at *23rd*.....on this the *February* day of *2024*.....

रमेश चन्द्र
DEPONENT

23 FEB 2024

ATTESTED
NOTARY PUBLIC DELHI
Govt. of India
Mob.: 9654768498



ANNEXURE-R/1**IN THE HIGH COURT OF JUDICATURE AT
ALLAHABAD**

CIVIL MISC. WRIT PETITION NO. 2243 OF 2023

(Under Article 226 of the Constitution of India)

DISTRICT :

SONEBHADRA

1. Arvind Prasad s/o late Sudarshan Prasad R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
2. Jyoti Swaroop Verma s/o Shiv Narayan Verma R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
3. Ramesh Chand S/o Bhadar R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
4. Mainuddin Ansari S/o Mohammad Isha R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
5. Zahidunisha w/o late Mohd. Isha R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
6. Rajaram Gupta S/o Nathai Gupta R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
7. Munib S/o Nathai R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.

8. Rudra Gupta S/o Munib gupta R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
9. Om Prakash Verma S/o Satyanarayan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
10. Chunnur @ Satyanarayan S/o Laxman R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
11. Laleram S/o Baburam R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
12. Shriram S/o Sarju R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
13. Nand Lal Verma S/o Shriram Verma R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
14. Ramkishor S/o Ram Adhar R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
15. Ravi Chandra S/o Baboonandan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
16. Manti W/o Hari Prasad R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
17. Tilakdhari S/o Rambhraos R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
18. Vishram S/o Ramlakhan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.

19. Narayan das S/o Ram Lakhan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
20. Setpal Verma S/o Ramraksha R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
21. Rajendra Prasad Verma S/o late Sarju R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
22. Chhote Lal S/o late Gone R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
23. Durgesh Kumar Patel S/o Sohan Lal R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
24. Sohan Lal Patel S/o Rudra Prasad R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
25. Setpati Devi W/o Rudra Prasad Patel R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
26. Chauras W/o late Shivdhan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
27. Raj Kumar Patel S/o Shivdhan R/o Khadia Bazar Yogichaura, Shaktinagar District Sonebhadra.

- 28.** Ramwati Devi W/o Chhotkan Patel R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
- 29.** Ramlalla Verma S/o Sarju R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
- 30.** Narendra Kumar S/o Chhote Lal R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
- 31.** Rameshwar Prasad S/o Harkhu R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
- 32.** Suresh S/o Kishun R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.

.....Petitioners.

Versus

- 1.** Union of India through Principal Secretary, Ministry of Coal, New Delhi.
- 2.** State of UP through Principal Secretary Revenue Government of UP at Lucknow.
- 3.** Chief Managing Director, Northern Coalfields Limited, Singrauli, District Singrauli, M.P.
- 4.** General Manager, Eastern Central Railway, Hazipur, Bihar.
- 5.** Divisional Railway Manager, Dhanbad, Eastern Central Railway, Dhanbad, Jharkhand.
- 6.** Chief Managing Director N.T.P.C. Limited N.T.P.C. Bhawan Lodhi Road New Delhi.

7. Chief General Manager, Khadia Project, Northern Coalfields Limited. P.O. Khadia, District Sonebhadra.
8. District Magistrate Sonebhadra.
9. Superintendent of Police, Sonebhadra.
10. Senior Divisional Engineer, East Central Railway, Dhanbad Division Jharkhand.
11. Deputy Chief Engineer (CON.) Renukoot, East Central Railway Renukoot Sonebhadra.
12. Regional Pollution Control Board Officer, Sonebhadra, Regional Pollution Control Board Sonebhadra.
13. Sub Divisional Magistrate, Duddhi, District Sonebhadra.
14. Manager (Security/Revenue) Khadia Project Northern Coalfields Limited. P.O. Khadia, District Sonebhadra.

.....Respondents.

To,

The Hon'ble Chief Justice and his other companion Judges of the aforesaid Hon'ble Court.

The humble Petition of the above named petitioner, most respectfully showeth as under:-

1. That this is the first writ petition filed by the petitioner, and there is no any other writ petition on the same cause of action before this Hon'ble Court

or in its Additional Bench Lucknow nor that is pending till the date.

2. That the petitioners have not received any notice of caveat from the respondents till date.
3. That by means of the present writ petition the petitioners are seeking writ of mandamus directing the respondents not to interfere into the peaceful possession of houses built over plots situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra allotted to the petitioners by the Eastern Central railway, Dhanbad Division in lieu of acquisition of their houses for first phase construction of Karela- Bina-Jayant Railway line during 1977 and also restrain the respondents from doing construction of Wharfwall (railway siding/coal loading unloading point) which is being constructed by NCL Khadia forcefully over the aforesaid plots of the petitioners situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra without adopting the due procedures of Land Acquisition as well as contrary to the standard operating procedures/guidelines as prescribed by the CPCB dated 4.6.2012 under Section 18 (1) B of the Water Prevention and Control Pollution Act 1974 and Air Prevention and Control of Pollution Act 1981. It is further prayed that this Hon'ble Court may graciously be pleased to issue an ad interim

mandamus directing the respondents to pay the compensation under the Rehabilitation Scheme as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013, if they acquire the aforesaid land afresh and further direct the respondents to provide Rehabilitation/Resettlement benefit in accordance with The Right To Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 before construction of the Wharfwall and allied works such as engine on the scape line, extension of bridge, weigh bridge and control room which are being constructed by the NCL Khadia Project Khadia District Sonebhadra through Senior Divisional Engineer East Central Railway Dhanbad Division/Deputy Chief Engineer (CON.) Renukoot Eastern Central Railway Renukoot Sonebhadra. It is further prayed that this Hon'ble Court may graciously be pleased to issue an ad-interim mandamus restraining the respondents from dumping over burden of NCL Khadia Project Khadia Coal Mines within less than 50 mtrs from the houses of the petitioners creating severe pollution flouting the mandatory provisions of Environmental Protection Act 1986, Water Prevention and Control of Pollution Act 1974, Air

Prevention and Control of Pollution Act 1981, The Coal Mines Regulation 1957, Hazardous Waste (Management and Handling and Transboundary Movement) Rules 2008 as well as standard operating procedures/guidelines as prescribed by the CPCB dated 4.6.2012.

4. That the petitioners are the permanent resident/Mool Niwasi of Village Khadia, Pargana Singrauli, Tehsil Duddhi, District Sonebhadra whose land/houses have been acquired by the Eastern Central Railways for the construction of Karela Road Bina Jayant Railway line in 1977 and they have been paid compensation as well as residential plots under the Rehabilitation/Resettlement schemes as applicable at that time at Nau Tola Khadia Pargana Singaruli Tehsil Duddhi District Sonebhadra. It is very relevant to mention here that total 87 project affected families/land evictees have been allotted rehabilitation plots situated at Nau Tola Khadia Pargana Singaruli Tehsil Duddhi District Sonebhadra on which they have constructed their houses and are residing in the houses built on allotted plots from then onwards.
5. That compensation have been paid to the petitioners and other land/house evictees who have got displaced due to construction of KGB Railway

line, East Central Railway and further as per Rehabilitation/Resettlement schemes applicable at that time they have been granted residential plots in regard to which patta have been issued by the joint signature of officials of East Central Railway as well as Tehsildar Duddhi District Mirzapur (now Sonebhadra). The petitioner no. 1 has been granted patta in regard to plot no. 84, petitioner no. 2 has been granted patta in regard to plot no. 70, petitioner no. 3 has been granted patta in regard to plot no. 83, petitioner no. 4 has been granted patta in regard to plot no. 9, petitioner no. 5 has been granted patta in regard to plot no. 12, petitioner no. 6 has been granted patta in regard to plot no. 3, petitioner no.7 has been granted patta in regard to plot no. 31, petitioner no. 8 has been granted patta in regard to plot no. 31, petitioner no. 9 has been granted patta in regard to plot no. 41, petitioner no. 10 has been granted patta in regard to plot no. 25, petitioner no. 11 has been granted patta in regard to plot no. 44, petitioner no. 12 has been granted patta in regard to plot no. 47, petitioner no. 13 has been granted patta in regard to plot no. 47, petitioner no. 14 has been granted patta in regard to plot no. 28, petitioner no. 15 has been granted patta in regard to plot no. 42, petitioner no. 16 has been granted patta in regard to plot no. 76, petitioner no. 17 has been

granted patta in regard to plot no. 75, petitioner no. 18 has been granted patta in regard to plot no. 29, petitioner no. 19 has been granted patta in regard to plot no. 30, petitioner no. 20 has been granted patta in regard to plot no. 48, petitioner no. 21 has been granted patta in regard to plot no. 49, petitioner no. 22 has been granted patta in regard to plot no. 51, petitioner no. 23 has been granted patta in regard to plot no. 80, petitioner no. 24 has been granted patta in regard to plot no. 80, petitioner no. 25 has been granted patta in regard to plot no. 80, petitioner no. 26 has been granted patta in regard to plot no. , petitioner no. 27 has been granted patta in regard to plot no. , petitioner no. 28 has been granted patta in regard to plot no. , petitioner no. 29 has been granted patta in regard to plot no. 46, petitioner no. 30 has been granted patta in regard to plot no. 50, petitioner no. 31 has been granted patta in regard to plot no. 19, petitioner no. 32 has been granted patta in regard to plot no. 82 situated at Nau Tola Khadia Pargana Singaruli Tehsil Duddhi District Sonebhadra issued by the joint signature of Eastern Central Railway officials as well as Tehsildar Duddhi District Mirzapur (now Sonebhadra). The true/photo copies of the patta in regard to allotment of the residential plots situated at Village Khadia Nau Tola Tehsil Duddhi District

Sonebhadra allotted to the petitioners by the joint signature of East Central Railway Officials and Tehsildar Duddhi District Mirzapur (now Sonebhadra) under the Rehabilitation and Resettlement scheme in lieu of acquisition in 1977-80 are being filed here with and marked as **Annexure No. 1** to this writ petition.

6. That Northern Coalfields Limited is a subsidiary company of Coal India Limited (Earlier to this Khadia Project, Khadia Sonebhadra and others were under Central Coalfields Limited, Ranchi) with its headquarter at Singrauli, District Singrauli M.P.
7. That compensation has been paid to the petitioners and other land/house evictees and as they have been displaced due to acquisition of their land/houses so they have been granted residential plots at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra (then Mirzapur) in addition to compensation as under Rehabilitation and Resettlement package scheme and from then onwards total 87 plot holders including the petitioners are residing by building houses over their. It is very relevant to mention here that about 367.484 acres of land acquired for NTPC has been released/transferred to Eastern Railway for construction of Karela- Bina-Jayant Railway line and the rehabilitation of their land oustees in 1976-

77 but till date these land have not been transferred in the name of railway in the revenue records and inspite of all the technical formalities completed by railways/ NTPC these transferred land yet not been entered into revenue records in the name of the railways rather in revenue records till date all these lands including the land in question on which petitioners have been allotted patta/residential plots in 1977 still in the name of NTPC in the revenue records. It is further submitted that Northern Coal Field Limited Singrauli had requested Divisional Railway Manager Eastern railway Dhanbad and Chief Engineer Eastern Railway Calcutta vide letters dated 14.9.1990 and 6.12.1990 for licensing out 17.45 acres of railway land required for Coal Handing Plant (CHP) at Khadia Project Khadia as the 17.45 acres of land was earlier with NTPC and had not been formerly handed over to the railway by NTPC. It is also very relevant to submit her that earlier to his Chief Revenue Officer Northern Coal Filed Limited Singrauli had also communicated to Senior Law Officer/Deputy Manager Law NTPC Shaktinagar (U.P.) vide letter dated 30.5.1990 and sought clarification/information regarding details of land transferred by NTPC to Eastern Railway in village Khadia and Chilkatand as they urgently required release of some land by railways for

construction of Coal Handling Plant CHP of Khadia Project subsequently Deputy Manager Law NTPC Shaktinagar District Mirzapur (now Sonebhadra) had replied vide communication dated 1.6.1990 to Chief Revenue Officer NCL Singrauli and stated that- “ We acknowledge receipt of your letter no Rev/I-24/442 dated 30th May 1990 seeking certain information in regard to transfer of land by NTPC to Eastern Railway about 367,484 acres of land acquired for NTPC has been released to Eastern Railway for construction of Kairala –Bina –Jayant line and the rehabilitation of land oustees. This area is neither included in the land to be transferred to NCL as per the Minutes of the meeting of the planning co ordination committee for the integrated development of Singrauli region held at Singrauli on 6th july 1984 nor the price thereof has been included in the amount of Rs 3,02,70,646.22 being the price of the land to be transferred to NCL by NTPC as per the above minutes. Payment of the aforesaid amount is pending for long time and has not so far been settled. We should once again request you to kindly settle the above amount for payment thereof at an early date.

As per the minutes of meeting dated 6th july 1984 NCL's requirement of land belonging to Eastern Railway in this area will be settled between NCL and

railway so you will take up the matter with the railways accordingly. ” Thus from the perusal of the above mentioned communications between NCL NTPC and Eastern Railway during the period of 1990 it becomes crystal clear that from 1990 onwards Northern Coal Field Limited Khadia Project Khadia was requiring some land including the land inquestion over which petitioners have been granted patta and they were residing after construction their houses from 1977 onwards in lieu of their land/houses acquired by the railways for the construction of Karela --Bina- Jayant railway line but it has never been transferred to NCL for construction of Coal Handling plant at Khadia and now forcibly NCL authorities under the garb of tranporation of Coal by railways a trying to demolish the house of the petitioners and trying to dispossess them from their property without adopting due procedures of law under the Land Acquisition Act. The true /photo copies of the communication dated 30.5.1990, 1.6.1990 and 6.12.1990 between the NCL, NTPC and Eastern Railway Dhanbad in regard to transfer of land including the land inquestion over which the petitioners have been granted plots are being filed here with and marked as **Annexure No. 2** to this writ petition.

8. That it is very relevant to mention here that NTPC had transferred 367.464 acre land to the East Railway for the construction of Karela -Bina- Jayant railway line but from 1977 onwards the name of the railways have not been entered into the revenue records till date and in the revenue records these lands are in the name of NTPC and in regard to transfer of land in the name of railways many exercises/communications were taken place between the authorities concerned but no result till date. It is further submitted that NTPC had made several communications on 27.10.2004, 11.12.2007 and 21.3.2011 to the East Central railway in regard to transfer/mutation of 367.484 acre land which has been transfer to the railways for construction of Karela --Bina- Jayant railway line and the rehabilitation of land oustees of railways but no any action in regard to transfer /mutation has been taken by railways subsequently NCL from 1990 onwards was demanding some land from railways for the construction of CHP Coal Handling Plant in the close proximity of railways which is included in 367.4 acre land transferred by NTPC to the railways but the name of the railways have not been entered into revenue records. The true/photo copy of the communication of NTPC to the East Central Railway in regard to transfer of 367.484 acre land dated

27.10.2004, 11.12.2007 and 21.3.2011 are being filed here with and marked as **Annexure No. 3** to this writ petition.

9. That Divisional Railway Manager East Central Railway Dhanbad had communicated to District Magistrate Sonebhadra dated 3.4.2018 in regard to transfer/mutation of 367.484 acre land which has been transferred by NTPC limited Shaktinagar to the railway department for the construction of Karela -- Bina- Jayant railway line in 1977. The true/photo copy of the communication of Divisional Railway Manager East Central Railway Dhanbad Division to the District Magistrate Sonebhadra dated 3.4.2018 in regard to transfer/mutation of 367.484 acre land including the land of the petitioners over which they have been allotted residential plots by railways is being filed here with and marked as **Annexure No. 4** to this writ petition.
10. That it is very relevant to mention here that 87 project affected families/land oustees have been granted residential plots at Nau Tola Village Khadia Pargana Singrauli Tehsil Duddhi District Sonebhadra by the railway department in lieu of their land/house acquisition during 1977 to 80 for the construction of Karela --Bina- Jayant railway line under the schemes of Rehabilitation/Resettlement alongwith

compensation but NCL Khadia Project Khadia had started its operation and from 1990 onwards they were trying to construct CHP coal Handling Plant Unit/Wharf wall /Coal Loading unloading point in the close proximity of residential plots of the petitioners which is the land of the railway which have been allotted to them through Patta duly signed by Tehsildar Duddhi District Mirzapur (Now Sonebharda) and railway authorities but they fail to do so in want of sanctioned from the railway and NTPC as the land has been transferred by NTPC to the railways but name of railways has not been recorded in the revenue records thus railway was not in position to transfer the same land to the NCL for aforesaid construction. It is very relevant to mention here that NCL Khadia Project had started dumping its over burden just 50 mtr away from the densely populated residential area of the petitioners having population of more than 10000 situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra and in this regard several complaints have been made by the petitioners and other elected representatives such as Gram Pradhan of Village Khadia before the authorities concern through representation and also they have approached personally before the Chief General Manager Khadia Project Khadia, District Magistrate Sonebhadra,

SDM Duddhi and other concern authorities but no any action has been taken by the authorities concern. The Gram Pradhan of Village Khadia had communicated in this regard before the Chief General Manager NCL Khadia Project Shaktinagar Sonebhadra serving its copies to District Magistrate Sonebhadra and other concern authorities on 22.5.2020 and also handed over memorandum to concern authorities personally also in regard to which news item had also been published in various News papers. The true/photo copy of the representation dated 22.5.2020 in regard to over burden dumping in the close vicinity of the petitioners residential area by NCL Khadia Project and news item published in the news paper in regard to same are being filed here with and marked as **Annexure No. 5** to this writ petition.

11. That it is very relevant to mention here that in the month of May 2020 NCL Khadia Project Khadia have started construction proceedings of Wharfwall/Coal Loading unloading point at Nautola Village Khadia Pargana Singrauli Tehsil Duddhi District Sonebhadra on the land/plots allotted to the petitioners and other 87 allottes by railway department under the Rehabilitation/Resettlement schemes in lieu of land/house acuqisition for the construction of Karela --Bina- Jayant railway line in

1977-80 without adopting due procedures of law in regard to acquisition of the land/house/plots of the petitioners which was duly opposed by them and also communication had been made to District Magistrate Sonebhadra serving its copies to other concerned authorities. The true/photo copy of the representation dated 25.5.2020 made by the petitioners and other plot allottees before the District Magistrate Sonebhadra serving its copies to other concerned authorities in regard to forceful dispossession for the construction of Wharfwall near/ on the plots /houses/land of the petitioners and other allottees situated Nautola Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra alongwith postal receipt are being filed here with and marked as **Annexure No. 6** to this writ petition.

- 12.** That on the representation/objection of the other allottees of plots/houses /land situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra in regard to forceful dispossession for the construction of Wharfwall near/on the plots/houses/land of the petitioners which have been allotted to them under the Rehabilitation/Resettlement schemes by railway department in lieu of land/house acquisition for the construction of Karela --Bina- Jayant railway line in 1977 District Magistrate Sonebhadra had directed

SDM Duddhi to coordinate with the NCL, Railway and NTPC authorities and to look into the matter and further directed to resolve the grievance of the petitioners and other allottees/residents of Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra and until then construction of Wharfwall has been stopped but again in 2021 NCL Khadia Project Khadia had started construction of Wharfwall at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra on /near the plot/house/land of the petitioners and other allottees without following the due procedures of law in regard to acquisition of their land/houses/plot which was again vehemently opposed by the petitioners and other local residents of the area subsequently NCL authorities have organized meeting with the affected families including petitioners and at that time in the presence of SDM Duddhi they have stated that the concern of affected families including the petitioners will always be considered before starting the construction of wharfwall and if necessary then either project will be shifted elsewhere or acquisition proceedings will be done and the project affected families including petitioner will be shifted. It is very relevant to mention here that again Gram pradhan on behalf of the project affected families/villagers Village Khadia Nau Tola Tehsil Duddhi District

Sonebhadra had approached before District Magistrate Sonebhadra through representations dated 1.10.2021 serving its copies to other concern authorities and prayed for necessary action and kind indulgence of the administration into the whole matter as its relates to the deprivation of property of the local residents as well as human life also. It is further submitted that NCL authorities in collusion with local administration were trying to suppress the voices raised by petitioners and other villagers opposing the construction of above mentioned Wharfwall without adopting the due procedure of law or acquiring the land /houses of the affected villagers including the petitioners which is evident from one proceeding initiated by SHO shaktinagar against local residents Nand Lal Verma who have been challaned and sent to jail on 3.9.2021 under Section 151/107/116 CRPC. The true/photo copy of the representation by Gram pradhan Khadia dated 1.10.2021 before the District Magistrate Sonebhadra opposing the construction of wharfwall by NCL Khadia without adopting the due procedure of law in regard to acquisition of plots/houses/land of the local resident of Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra including the petitioners affected by the starting construction proceedings, police challenged report under Section

151/107/116 Crpc by SHO Shaktinagar of Nand Lal Verma local resident of Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra who is opposing the construction of Wharfwall by NCL Khadia and news item published in various News papers in regard to the same are being filed here with and marked as **Annexure No. 7** to this writ petition.

13. That again in 2022 construction of Wharfwall have been started in full flow inspite of objection of the petitioners and other local residents with the help of the local administration specially police department who is continuously threatening petitioners and other local resident to falsely implicate and criminal cases and sent them jail and surprisingly Sonebhadra administration kept silence over this issue and further a meeting has been organized under the Chairman ship of District Magistrate Sonebhadra including Regional Pollution Control Board Officer Sonebhadra, Additional District Magistrate Sonebahdra, SDM Duddhi, CO Duddhi , Chief General Manager NCL Khadia Project Sonebhadra and Deputy Chief Engineer CON Renukoot ECR Renukoot Sonebhadra on 10.8.2022 at Collectorate Sonebhadra for establishment of Wharfwall/railway siding/Coal Loading unloading Point for transportation of coal by railways in which point wise detail discussion has been made by the

concerned authorities in regard to establishment of aforesaid wharfwall/railway siding of NCL Khadia Project and further direction by District Magistrate have been issued to complete the ongoing construction of aforesaid wharfwall within time limit as it was informed by the NCL authorities that Senior Divisional Engineer East Central Railway had given their consent for constructing remaining part of wharfwall and other work like scape line on engine, extension of bridge, weigh bridge and control room by the consent letter dated 21.12.2021 and advance of rs. 5127208.55 had already been deposited with railways for construction estimate and also more than 60% works of wharfwall have been completed. It is very relevant to mention here that not a single word by the concerned authority in regard to acquisition of land/houses of the project affected families including petitioners of Village Khadia Nau Tola Tehsil Duddhi District Sonbhadra on whose land/houses/plots aforesaid construction is being going on have been stated neither any order have been passed by the District Magistrate in spite of the pending representations of the petitioners and other project affected families objecting the construction of the above mentioned wharfwall without adopting the due procedure of law and acquiring the land/house of the petitioners. The true/photo copy

of the minutes of meeting dated 9.9.2022 in regard to the meeting organized at Collectorate Sonebhadra for establishment of wharfwall/railway siding at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra and detail of land required for the construction of wharfwall forwarded by the railway are being filed here with and marked as **Annexure No. 8** to this writ petition.

14. That again petitioners and other resident of Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra who are being affected by the ongoing construction of wharfwall/railway siding on their land /house /plots which has been allotted to them through patta duly signed by Tehsildar Duddhi and officials of East railway under the Rehabilitation/Resettlement schemes in lieu of their land/houses acquired by the East railway for the construction of Karela --Bina- Jayant railway line in 1977 and from then onwards they were residing have approached before the District Magistrate Sonebhadra serving its copies to other concerned authorities objection the ongoing construction of Wharfwall and duping of over burden less than 50 mtr away from their residential colony on 12.11.2022 but till date no any action has been taken place subsequently they have approached the local elected representative of the area likewise MLA

Duddhi Ram Dulare Gon, Member of Parliament Robertsganj Mr. Pakaudi Lal Kol and on their instruction again a meeting has been organized between the railway, NCL, NTPC authorities and SDM but no any solution to their grievance had been made and now as the construction of aforesaid wharfwall had reached on their plots/houses and they are under serious threat of dispossession rather officials of NCL and local administration is continuously threatening them that this land have already been transfer by Railways to the NCL authority for the construction of wharfwall whereas the real fact is that till date the land has not been transfer in the name of railway and neither railways have transferred single piece of land to the NCL for any type of construction and there is no any document available with them in regard to transfer of land and acquisition of land for construction of wharfwall and they are doing construction of wharfwall illegally. It is very relevant to mention here that petitioners have the vested right of being rehabilitated as such they have been rehabilitated and have been granted residential plots through patta certificate duly signed by Tehsildar dudddhi District Mirzapur and East railway officials in lieu of their land /houses acquired for the construction of Karela --Bina- Jayant railway line in 1977 whereas

NCL Khadia have neither acquired the land over which they were constructing wharfwall nor it has been till date transferred by railway department to the NCL authorities thus the whole construction is being done illegally and it is one of the glaring example of colorable exercise of power malicious intent and collusion of state authorities in depriving the petitioners and other local resident from their legitimate rights without adopting the due procedures of law which has been guaranteed under Article 300 A of the constitution of India. The true/photo copy of the representation dated 12.11.2022 before the District Magistrate Sonhadra serving its copies to the concerned authorities made by the petitioner and other affected families of Village Khadia Nau Tola Tehsil Duddhi District Sonhadra opposing the ongoing construction of the wharfwall without adopting the due procedure of law and photographs of the actual site of construction of wharfwall are being filed here with and marked as **Annexure No. 9** to this writ petition.

15. That as per the mandatory provisions Central Pollution Control Board had issued the direction under Section 18 1 B of the Water Prevention and Control of Pollution Act 1974 on 4.6.2012 about the categorization of industries under red, orange/green

industries and as per their categorization at serial no. 48 Coal Stock yards/Coal depots and railway siding coal activities are covered under red type of industries and they should obtained consent to establishment and operate for stock yards/coal depots/railway sidings from the concern boards and following guidelines are led down for consideration by the respective boards –

- A. All these stock yards/coal depots/depos for storage of coal metals and minerals having area more than 1000 sqr meter and capacity of more than 10 million tones of storage of coals metal minerals at any given point out of time and railway siding for handling to coal and other minerals should get consent from concern pollutions control board .
- B. The concerned authorities must provide consent and before establishment there should be compliance with respect to water pollution aspect and every coal yard/railway siding coal depot shall provide adequate waste water treatment and disposal facility for treatment of affluent generated from their activity and they should strictly comply withy the provisions under the Water Act 1974

- C. The coal stock yard/coal depot shall provide adequate air pollution control arrangement at the soul they shall comply with the provisions under the Air Prevention of Control Act 1981.
- D. The cola depots/railway siding and minerals stock yards shall comply strictly MoEF notification of National Ambient air qualities standard dated 18.11.2009
- E. The ambient air quality monitoring station shall be installed for monitoring air quality in consultation with concern State Pollution Control Board.
- F. All entry exit point internal roads and loading unloading areas must be made road worthy for movement of heavy vehicles by using low permeability material (example concrete bitumen) and be clean regularly to minimize potential for dust generation and off site impact. The wind breaking wall shall be provided to material handing area/coal depot.
- G. Continuous sprinkling of water on roads and use fogger spray at all location of storage of coal and handling to ensure minimum emissions.
- H. Coal deport/coal yards/railway siding coal handling authority must carry out regular

monitoring of ambient air quality and water quality of the nearby water bodies through MoEF approved agency and submit the reports to State Pollution Control Board and submit the report concern SPCB.

- I. The coal yard/coal depot should strictly comply mandatory provisions with respect to hazardous waste aspect and shall not handle hazardous waste material at railway siding and mineral stock yards and coal stock yards.
- J. Storage of coal shall be done in well demarcated compartmentalized areas and not in haphazard manner.
- K. A boundary wall of at least 3 mtr height must be constructed alongwith the Perry pherry of the coal stock yard to prevent the fine particles from being carried away with the surface run of the nearby water bodies.
- L. Adequate tree plantation shall be undertaken around the coal depot/coal stock yard to minimize impact of air emissions and meteorological study specifically wind directions should be carried out and accordingly plan to control fugitive emissions/dust particles and suppressions system.

- M. Coal handling Unit /Coal depot shall be minimum 500 mtr away from the residential area School, Colleges, Historical Monument, Religious places, Ecological sensitive area, as well as forest area and it should be also located minimum 500 mtr away from railway lines, express ways, national highways, state ways, district roads and from water bodies like river, nala, pond, canal etc.
- N. Coal handling unit/stock yard coal depot shall provide adequate fire fighting measure to avoid any fire and shall ensure that there is no explosive or chemical reaction in coal storage yard they should prepare a plan to avoid fine particulate emission and spontaneous coal combustion, self heating of coal, oxidation of coal etc.

In the instant case all these mandatory guidelines are being violated by carrying out the construction of Wharfwall situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra illegally without following the due procedure of law or acquiring the land/houses/plots of the petitioners as well as till date not a single piece of land has been transferred by railway department to the NCL for any construction and the matter has pending

since 1990 between the both departments because till date all these 367.484 acre land has been recorded in the name of NTPC as it was acquired by NTPC in 1976 for the construction of Shaktinagar Super Thermal Power Station and further it has been transferred/released to Eastern Railway for construction of Karela --Bina-Jayant railway line and the rehabilitation of land owners of railways and till date its mutation proceedings have not been completed thus NCL Khadia is illegally constructing the wharfwall which includes the land/houses/plots of the petitioners also.

- 16.** That it is very relevant to mention here that Coal India to ensure a humane, participatory, informed consultative and transparent process for land acquisition for coal mining and allied activities with the least disturbance to the owners of the land and other affected families and to provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for loss of livelihood of such affected persons including their rehabilitation and resettlement benefits formulated Resettlement and Rehabilitation Policy, 2012 based on the deliberations of the inter ministerial committee set

up vide O.M. 490191/2011-PR/W-1 dated 1.7.2011 of Ministry of Coal, deliberations of the CMD's meet held on 5.3.2012 at New Delhi and has been approved by the CIL Board in its 279th meeting held on 12th and 13th March, 2012, this revised Rehabilitation and Resettlement Policy, 2012 adopted liberal policy which enables the land loser to chose between various options and adopt the package which best suits oustees/project affected families needs. The photo copy of the Rehabilitation and Resettlement Policy of Coal India 2012 is being filed herewith and marked as **Annexure No.10** to this writ petition.

17. That due to the industrialization of the area, environmental problem in respect of air pollution and water pollution, solid waste management have been reported since last 2-3 decades. The huge area (more than 3000 acres) along the Rihand Reservoir has been occupied for disposal of fly-ash by Thermal Power Plants of NTPC Ltd., UPRVUNL, M/s Lanco Power and M/s Hindalco Industries Ltd., U.P. in the Singrauli Region. Most of the ash-ponds have attained their maximum height and reached their saturation and therefore, have no further argumentation capacity for disposal of ash slurry. The disposal of ash flurry as well as Rihand Reservoir leads to silting of the

Rihand Reservoir as well as contaminate the water of the Rihand Reservoir which the only source of drinking water in the area and further due to discharge of mercury bearing brine sludge directly into the Rihand Reservoir through various streams /water bodies in past by M/s Aditya Birla Chemicals Ltd. (formerly M/s Kanoria Chemicals Ltd., U.P.) severely polluted the water of the Rihand Reservoir as well as Coal production units likewise Northern Coal fields limited and its subsidiary coal fields discharge highly contaminated water through various seems /sewages /nalas which flows directly into Rehand Reservoir containing harmful effluent which also severely polluted the reservoir and particularly dumping of over burden by Khadia Project NCL near the residential area at Village Khadia Nautola Pargana Singrauli Tehsil Duddhi District Sonebahdra causing severe pollution creating adverse impact upon the health and life of the local resident including the petitioners and in this regard they have approached before the authorities concern several times but no any action has been taken place till date and this establishment of Wharfwall/railway siding/loading unloading point by NCL Khadia in close vicinity of the residential area at Village

Khadia Nautola Pargana Singrauli Tehsil Duddhi District Sonebahdra will create serious degradation of environment causing pollution by acidic water emanating from such depots as well as due to gradual and continuous burning of coal at above mentioned wharfwall/railway siding /loading unloading point will discharge harmful gacious effluents directly into the atmosphere creating serious degradation of air quality in the area and emission of fine particulate will also increase due to transportation /storage of coal as well as spontaneous coal combustion related harmful gases like So₂ Co₂ and other will create serious health issues to the local residents of the area subsequently establishment of above mentioned Wharfwall /railway siding /loading unloading point being constructed by NCL Khadia Project without adopting due procedure of law as well as without acquiring the land/house/plots of the petitioners will cause havoc and serious degradation of environment both water and air pollution hence contrary to the provisions of Environmental Protection Act 1986, Water (Prevention and Control) Act, 1974 and Air Act, Air Prevention And Control of Pollution Act 1981, The Coal Mines Regulation 1957, hazardous Waste (Management and Handling and

Transboundary Movement) Rules, 2008 and Standard Operating Procedures/Guidelines as prescribed by the CPCB.

- 18.** That Coal mines and super thermal power plant situated in the area produces approximately 83 million per annum of coal and 13200 million watts of thermal power and are responsible for 16% of total mercury pollution i.e. 720 km. of mercury per year. In the entire Singrauli region, (Madhya Pradesh and Uttar Pradesh), number of Thermal Power Plants as running such as NTPC, Vindhyachal Super Thermal Power Station, Singrauli Super Thermal Power Station, Rihand Super Thermal Power Station, Hindalco Industrial power Division, Renuagar, Hindalco Industries, Renukoot, Obra Thermal Power Station Unit A and Unit B, Anpara Thermal Power Station A, B and C, Sasan Ultra Mega Power Project Ltd., Essar Power Ltd. Lanco Industries Ltd. and Hindalco Industries, Renukoot, Hi-Tech Carbon Ltd., Renukoot, Aditya Birla Chemical Industries, Dala Cement (Now Aditya Birla Group), Orient Micro Abrasives Ltd., Renukoot and number stones pressure units are creating acute pollution and destroyed the environmental balance of the area and continuously destroying the environment in the area without taking care of the

environmental impact and also without caring about the sever health problems high risk to the public at large.

- 19.** That the entire Singrauli area has been severely affected by the mercury pollution which is caused due to operation of coal mines and Thermal Power Plant, as per the Black Smith Institute report and united nations environment program reports, mercury level in the blood and hair of tested Singrauli residents are higher than normal, the water both surface water as well as underground water has been contaminated by the mercury which is the resultant of fly-ash. Exposure to sufficiently high level permanent damages to the nervous system and brain, kidneys and developing fetus. The entire region is suffering from the mercury poisoning as the reason is heavily polluted by the mercury as the reason is heavily polluted by the mercury. The causes of the mercury pollution in the area are burning of huge amount of coal for power generation. The water bodies of the area specially Rihand Reservoir has been badly polluted due to direct disposal of ash slurry and dumping of harmful industrial wastages on the bank of Rihand Reservoir consequently, the water of the Rihand Reservoir is highly contaminated with the mercury and other

heavy harmful elements such as lead, arsenic cadmium etc.

20. That in regard to the serious situation of environmental degradation in the Singrauli area consisting both parts of Madhya Pradesh District Singrauli and Uttar Pradesh District Sonebhadra various applications have been filed for restitution of the environment before this Hon'ble Tribunal bearing O.A. No. 276/2013 and O.A. No. 20/2014 in which this Hon'ble Tribunal vide order dated 25.8.2014 constituted a core committee for monitoring of potential hazards of industrial development in Singrauli area and five sub comities for quantification of industrial pollution and impact assessment of water, air , soil and health in an around Singrauli area and further pursuant to the directions dated 25.8.2014 committees visited the area inquestion and filed its details reports dated 20.8.2015 with the direction to the industries concern and the State government to comply with the orders consequently this Hon'ble Tribunal after going to the aforesaid comprehensive reports found that serious level of pollution prevailing in the Singrauli area hence accepting the interim and

final reports dated 7.7.2014 and 20.8.2015 passed a detail order dated 6.12.2017 constituting two separate committees for appropriate implementation of the recommendations made by the core committee in their reports but inspite of these order/ directions the measurable condition of the Singrauli area in regard to environmental degradation continues and further against the willful and deliberate non compliance of the various orders of this Hon'ble Tribunal passed in O.A. No. 276/2013 and O.A. No. 20 / 2014 dated 6.12.2017 applicant of O.A. No. 276/2013 again approached before this Hon'ble Tribunal through E.A. which has been treated as O.A. No. 164 / 2018 in which this Hon'ble Tribunal vide its order dated 28.8.2018 constituted an oversight committee under the Chairman ship of Justice (Retd.) Rajesh Kumar to monitor the implementation of various directions passed by the Hon'ble NGT in case of O.A. No. 164/2018 (earlier O.A. No. 276/2013).

- 21.** That in spite of clear order of this Hon'ble Tribunal for addressing serious environmental

questions and further many committees have been constituted for redressal and also supervisory and over sighting committee has also been formed and all these committee had given several recommendations as well as direction but till date from bare perusal of the minutes/reports/status reports filed by the state Authorities (both MP and UP) /as well as other respondents no instances of tangible actions taken for matriculation of the problems having been stated. It is very relevant to mention here that inspite of various recommendations and order passed by this Hon'ble Tribunal in regard to the pathetic condition of environment in the Singrauli and no quality improvement till date have been taken place and in between this dumping of over burden by NCL Khadia Project Khadia within the 50 mtr from the residential area situated at Village Khadia Nautola Pargana Singrauli Tehsil Duddhi District Sonebahdra is creating serious environmental degradation problem.

- 22.** That it is very relevant to mention here that the above mention construction of Wharfwall /railway siding /loading unloading point by NCL Khadia Project Khadia without adopting the due procedures of law and without acquiring the

land/houses/plots of the petitioners as per Right To Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013 as well as establishment of this wharfwall within close vicinity of densely populated area is also contrary to the provisions of the Environmental Protection Act 1986, Water (Prevention and Control) Act, 1974 and Air Act, Air Prevention And Control of Pollution Act 1981, The Coal Mines Regulation 1957, hazardous Waste (Management and Handling and Transboundary Movement) Rules, 2008 and Standard Operating procedures/guidelines as prescribed by the CPCB.

- 23.** That the Supreme Court of India, in several judgements, has held that the human right to adequate housing is a fundamental right emanating from the right to life protected by Article 21 of the Constitution of India ("No person shall be deprived of his life or personal liberty except according to procedure established by law"). There have been several important court judgments that have clearly established the relation between the right to housing and the right to life, as guaranteed by Article 21. In the case of U.P. Avas EvamVikasParishad vs. Friends Coop. Housing Society Ltd. (1996), the Supreme Court affirmed that:

The right to shelter is a fundamental right, which springs from the right to residence under Article 19 (1) (e) and the right to life under Article 21.

In 1981, the Supreme Court, in the case Francis Coralie vs. Union Territory of Delhi, stated:

We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow beings.

In the case of Chameli Singh and Others vs. State of Uttar Pradesh (1996), the Supreme Court provided a holistic understanding of the right to shelter and adequate housing. It declared:

Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc.

so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right... Want of decent residence therefore frustrates the very object of the constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself.

In 1990, in the Ahmedabad Municipal Corporation vs. Nawab Khan Gulab Khan and Others case, the Supreme Court directed the state to construct affordable houses for the poor:

The State has the constitutional duty to provide shelter to make the right to life meaningful.

Significantly, in 1990, the Supreme Court recognised the right of children to adequate housing. In the case Shantistar Builders vs. Narayan Khimalal Totame, the Court observed:

The Constitution aims at ensuring the full development of every child. That would be possible only if the child is in a proper home.

The Supreme Court has also upheld the right to property. In the case of *Tukaram Kana Joshi and Others vs. MIDC and Others*, the Court noted that:

The right to property is now considered to be, not only a constitutional or a statutory right, but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment etc. Now however, human rights are gaining an even greater multi-faceted dimension. The right to property is considered, very much to be a part of such new dimension.

b) Judgements from State High Courts Certain interim orders and judgements from High Courts across the country have also upheld the human right to adequate housing, and condemned the practice of forced evictions without due process and adherence to human rights standards. The High Court of Delhi, in the case of *P.K. Koul and Ors. vs. Estate Officer and Anr. and Ors.* (2010), upheld the right to adequate housing and affirmed that:

40 (...) right to residence and to settle in any part of the country is assured to every citizen as a

fundamental right under Article 19 (1) (e) of the Constitution of India... The right to shelter springs from this right and has been considered to be an integral part for a meaningful enjoyment of right to life under Article 21 of the Constitution of India.

56. It is essential to note that in fact no new right is being created, recognized or reiterated by the international instruments or the said guidelines. The right to shelter of every person has been recognized as an essential concomitant of right to life under Article 21 of the Constitution of India. It would clearly be covered under the definition of a "human right" under Section 2(1)(d) of the Protection of Human Rights Act, 1993, which includes rights relating to life, liberty, equality and dignity. The right to shelter, an essential part of right to life, would therefore also be a statutorily recognized right under Section 2(1)(d) of the Act of 1993 and enforceable as such also.

170. In 1995 (2) SLR 72 P. G. Gupta vs. State of Gujarat the Supreme Court had further declared that it was the duty of the state to construct houses at reasonable costs and make them easily accessible to the poor, and that such principles have been expressly embodied in our Constitution

to ensure socioeconomic democracy so that everyone has a right to life, liberty and security of the person.

171. The Supreme Court has repeatedly reiterated the well settled position that the state has the constitutional duty to provide adequate facilities and opportunities to all including the disadvantaged and the displaced, by distributing its wealth and resources for the settlement of life and erection of shelter over their heads. The court has emphasized the constitutional right of every citizen to migrate and settle in any part of India for better employment opportunity and it would be the duty of the state to provide right to shelter to the disadvantaged in society (Ref: Ahmedabad Municipal Corporation vs. Nawab Khan Gulab Khan &Ors).

175. It is the constitutional duty of the state to protect human rights and the fundamental rights of all persons. The distinction between such rights and legal rights which may require adjudication in appropriate proceedings has also been emphasised on several occasions.

182. The expansion and interpretation by the courts has affirmatively established a positive right to housing and shelter for every person as part of the fundamental right. Human rights and

fundamental rights are inalienable; their violations are indefensible. The state is under a constitutional obligation and duty to protect these rights. When violated, a citizen is entitled to their enforcement. The constitutional mandate upon it, is coupled with the statutory duty and public law obligations to ensure the protection of the fundamental and basic human rights to all, in addition to its obligation under the several international instruments noticed above. This essentially remains in the exclusive domain of state functions. Failure to protect the citizens from eminent loss of life and property as well as maintenance of public order, implicates the state for culpable inaction.

In the case of *Sudama Singh and Others vs. Government of Delhi and Anr.*(2010), the High Court of Delhi also established that housing is a human right. It stated:

26. Adequate housing serves as the crucible for human wellbeing and development, bringing together elements related to ecology, sustained and sustainable development. It also serves as the basic unit of human settlements and as an indicator of the duality of life of a city or a country's inhabitants.

34. The recognized importance of the right to housing over time has led to its ratification and reinforcement through other international declarations, conventions and conferences, in which more precise and complex objectives have been developed.

39 (...) Protection of life guaranteed by Article 21 encompasses within its ambit the right to shelter to enjoy the meaningful right to life. The right to residence and settlement was seen as a fundamental right under Article 19 (1) (e) and as a facet of inseparable meaningful right to life as available under Article 21.

In *M.C. Mehta & Anr. vs. Union of India & Ors.*, (1987) 1 SCC 395, this Court observed as under:-

"7. We are also of the view that this Court under Article 32(1) is free to devise any procedure appropriate for the particular purpose of the proceeding, namely, enforcement of a fundamental right and under Article 32(2) of the court has the implicit power to issue whatever direction, order or writ is necessary in a given case, including all incidental or ancillary power necessary to secure enforcement of the fundamental right. The power of the court is not only injunctive in ambit, that is, preventing the infringement of a fundamental right, but it is

also remedial in scope and provides relief against a breach of the fundamental right already committed vide *Bandhua Mukti Morcha* case. If the court were powerless to issue any direction, order or writ in cases where a fundamental right has already been violated, Article 32 would be robbed of all its efficacy, because then the situation would be that if a fundamental right is threatened to be violated, the court can injunct such violation but if the violator is quick enough to take action infringing the fundamental right, he would escape from the net of Article 32. That would, to a large extent, emasculate the fundamental right guaranteed under Article 32 and render it impotent and futile. We must, therefore, hold that Article 32 is not powerless to assist a person when he finds that his fundamental right has been violated. He can in that event seek remedial assistance under Article 32. The power of the court to grant such remedial relief may include the power to award compensation in appropriate cases. We are deliberately using the words "in appropriate cases" because we must make it clear that it is not in every case where there is a breach of a fundamental right committed by the violator that compensation would be awarded by the court

in a petition under Article 32. The infringement of the fundamental right must be gross and patent, that is, incontrovertible and ex facie glaring and either such infringement should be on a large scale affecting the fundamental rights of a large number of persons, or it should appear unjust or unduly harsh or oppressive on account of their poverty or disability or socially or economically disadvantaged position to require the person or persons affected by such infringement to initiate and pursue action in the civil courts. Ordinarily, of course, a petition under Article 32 should not be used as a substitute for enforcement of the right to claim compensation for infringement of a fundamental right through the ordinary process of civil court. It is only in exceptional cases of the nature indicated by us above, that compensation may be awarded in a petition under Article 32. This is the principle on which this Court awarded compensation in Rudul Shah v. State of Bihar. So also, this Court awarded compensation to Bhim Singh, whose fundamental right to personal liberty was grossly violated by the State of Jammu and Kashmir. If we make a fact analysis of the cases where compensation has been awarded by this Court, we will find that in all the cases,

the fact of infringement was patent and inconvertible, the violation was gross and its magnitude was such as to shock the conscience of the court and it would have been gravely unjust to the person whose fundamental right was violated, to require him to go to the civil court for claiming compensation."

There is, therefore, not much of a difference between the powers of the court exercised here in this country under Article 32 or 226 and those exercised in England for judicial Review. Public law remedies are available in both the countries and the courts can award damages against public authorities to compensate for the loss or injury caused to the plaintiff/petitioner, provided the case involves, in this country, the violation of fundamental rights by the Govt. or other public authorities or that their action was wholly arbitrary or oppressive in violation of Article 14 or in breach of statutory duty and is not a purely private matter directed against a private individual.....

.....One, has to view the proximate and real consequence of thwarting transnational travel through the power of the State exercised under s. 3 of the Passport Act read with ss. 5 and 6. Associated rights totally integrated

with fundamental rights must enjoy the same immunity. Three sets of cases might arise. First, where the legislative provision or executive' order expressly forbids exercise in foreign lands of the fundamental right while granting passport. Secondly, there may be cases where even if the order is innocent on its face, the refusal of permission to go to a foreign country may, with certainty and immediacy, spell denial of free speech and professional practice or business. Thirdly, the fundamental right may itself enwomb locomotion regardless of national frontiers. The second and third often are blurred in their edges and may overlap. [732 H, 733 A-C] Spies, traitors, smugglers, saboteurs of the health, wealth and survival or sovereignty of the nation shall not be passported into hostile soil to work their vicious plan fruitfully. But when applying the Passports Act, Over- breadth, hyper-anxiety, regimentation complex, and political mistrust shall not sub-consciously exaggerate, into morbid or neurotic refusal or unlimited impending or final revocation of passport, facts which, objectively assessed, may prove tremendous trifles. That is why the provisions have to be read down into constitutionality, tailored to fit the reasonableness test and humanised by natural justice. The Act will survive but the order shall

perish for reasons so fully set out by Shri Justice Bhagwati. And on this construction, the conscience of the Constitution triumphs over vagarious governmental orders. [734 E-G-H] Kailasam, J. (Dissenting) The preamble to the Constitution provides that the people of India have solemnly resolved to constitute India into a sovereign, socialist, secular and democratic republic and to secure to all its citizens, justice, social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity. Article 12 defines the State as including the Government and Parliament of India and the Government and the Legislature of each of the States and of local or other authorities within the territory of India or under the control of the Government of India. Article 13 provides that laws that are inconsistent with or in derogation of fundamental rights are to that extent void. Article 245(2) provides that no law made by Parliament shall be deemed to be invalid on the ground that it would have extra territorial operation. In England section 3 of the Statute of Westminster declares that Parliament has full power to make laws having extra territorial operation. The following are the principles to determine whether the

provisions of a Constitution or a Statute have extra territorial application.

Of all the rights, the right to one's life is the most valuable. This article of the Constitution, therefore, makes the right fundamental. But the inalienable right is curtailed by a murderer's conduct as viewed under law. The deprivation, when it takes place, is not of the right which was immutable but of the continued exercised of right.,'
(1) [1967] 2 SCR762.

It is, therefore, clear that six out of eleven Judges in Golak Nath's case declared that fundamental rights are natural rights embodied in the Constitution itself. This view was affirmed by the majority Judges of this Court in Shukla's case. It was explained by me there at some length. Khanna,, J., took a somewhat different view. Detailed reasons were given by me in Shukla's case (supra) for taking what I found to be and still find as the only view I could possibly take if I were not to disregard, as I could not properly do, what had been held by larger benches and what I myself consider to be the correct view : that natural law rights were, meant to be converted into our Constitutionally recognised fundamental rights, atleast so far as they are expressly mentioned, so

that they are to be found within it and not outside it. To take a contrary view would involve a conflict between natural law and our Constitutional law. I am emphatically of opinion that a divorce between natural law and our Constitutional law will be disastrous. It will defeat one of the basic purposes of our Constitution. The implication of what I have indicated above is that Article 21 is also a recognition and declaration of rights which inhere in every individual. Their existence does not depend on the location of the individual. Indeed, it could be argued that what so inheres is inalienable and cannot be taken away at all. This may seem theoretically correct and logical. But, in fact, we are often met with denials of what is, in theory, inalienable or "irrefragible". Hence, we speak of "deprivations" or "restrictions" which are really impediments to the exercise of the "inalienable" rights' Such deprivations or restrictions or regulations of rights may take place, within prescribed limits, by means of either statutory law or purported actions under that law. The degree to which the theoretically recognised or abstract right is concretised is thus determined by the balancing of principles on which an inherent right is based against those on which a restrictive law or orders under it could be imposed

upon its exercise. We have to decide in each specific case, as it arises before us, what the result of such a balancing is.

(2) [1973] 3 S.C.R. 530.

Gopalan's case that certain articles in the Constitution exclusively deal with specific matters cannot be accepted as correct". It was hold in R. C. Cooper's case and that is clear from the judgment of Shah, J., because Shah, J., in so many terms disapproved of the contrary statement of law contained in the opinions of Kania, C. J., Patanjali Sastri, J., Mahajan, J., Mukherjee, J., and S. R. Das, J., in A. K. Gopalan's case that even where a person is detained in accordance with the procedure prescribed by law, as mandated by Article 21, the protection conferred by the various clauses of Article 19(1) does not cease to be available to him and the law authorising such detention has to satisfy the test of the applicable freedom under Article 19, clause (1). This would clearly show that Articles 19(1) and 21 are not mutually exclusive, for, if they were, there would be no question of a law depriving a person of personal liberty within the meaning of Article 21 having to meet the challenge of a fundamental right under

Article 19(1). Indeed, in that event, a law of preventive detention which deprives a person of 'personal liberty' in the narrowest sense, namely, freedom from detention and thus falls indisputably within Art. 21 would not require to be tested on the touchstone of clause (d) of Article 19 (1) and yet it was held by a Bench of seven Judges of this Court in *Shambhu Nath Sarkar v. The State of West Bengal & Ors.* (1) that such a law would have to satisfy the requirement inter alia of Article 19 (1), clause (d) and in *Haradhan Saha v. The State, of West Bengal & Ors.*, (2) which was a decision given by a Bench of five judges, this Court considered the challenge of clause (d) of Article 19(1) to the constitutional validity of the Maintenance of Internal Security Act, 1971 and held that that Act did not violate the constitutional guarantee embodied in that article. It is indeed difficult to see on what principle we can refuse to give its plain natural meaning to the expression 'personal liberty' as used in Article 21 and read it in a narrow and restricted sense so as to exclude those attributes of personal liberty which are specifically dealt with in Article 19. We do not think that this would be a correct way of interpreting the provisions of the Constitution conferring fundamental rights. The attempt of the court should be to expand the reach and ambit of

the fundamental rights rather than attenuate their meaning and content by a process of judicial construction. The wave length for comprehending the scope and ambit of the fundamental rights has been set by this Court in R. C. Cooper's case and our approach in the interpretation of fundamental rights must now be in tune with this wave, length. We may point out even at the cost of repetition that this Court has said in so; many terms in R. C. Cooper's case that each freedom has different dimensions and there may be overlapping between different fundamental rights and therefore it is not a' valid argument to say that the expression 'personal liberty' in Article 21 must be so interpreted as to avoid overlapping between that article and Article 19(1). The expression 'personal liberty' in Article 21 is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have been raised to the status of distinct fundamental rights and given additional protection under Article 19. Now, it has been (1) [1973] 1 SCR 856.

(a) and hence there was no violation of that Article. This argument of the Government was negated by the majority in the following words : "Mr. Palkhivala said that the tests of pith and substance of the

subject matter and of direct and of incidental effect of the legislation are relevant to questions of legislative competence but they are irrelevant to the question of infringement of fundamental rights. In our view this is a sound and correct approach to interpretation of legislative measures and State action in relation to fundamental rights. The true test is whether the effect of the impugned action is to take away or abridge fundamental rights. If it be assumed that the direct object of the law or action has to be direct abridgement of the right of free speech by the impugned law or action it is to be related to the directness of effect and not to the directness of the, subject matter of the impeached law or action. The action may have a direct effect on a fundamental right. Thus from the above mentioned judgments it is evident that shelter/house and right to residence and settlement is seen as a fundamental rights under Article 19(1)(e) as well within the ambit of Article 21 right to life, whereas in the instant case petitions have been deprived of their legitimate right from past 38 years, their houses have been acquired for the public purpose namely construction of Anpara Thermal Power Project during 1978-84 but they have not been provided with the requisite rehabilitation/ resettlement benefits including allotment of

rehabilitation plots till date and third generation depriving the petitioners of their immovable properties is clear violation of Article 21 of the constitution. In the Welfare State, statutory authorities are bound not only to pay adequate compensation but there is also a legal obligation upon them to rehabilitate such persons. The non fulfillment of their obligations would defeat the justice. Therefore it is not permissible for any welfare state to uproot a person and deprive him of his fundamental/constitutional/human rights under the garb of industrial development.

- 24.** That it is expedient in the interest of justice that this Hon'ble Court may graciously be pleased to issue an ad interim mandamus directing the respondents not to interfere into the peaceful possession of houses built over plots situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra allotted to the petitioners by the Eastern Central railway, Dhanbad Division in lieu of acquisition of their houses for first phase construction of Karela- Bina-Jayant Railway line during 1977 and also restrain the respondents from doing construction of Warf wall (railway siding/coal loading unloading point) which is being constructed by NCL Khadia forcefully over the aforesaid plots of the petitioners situated at Village Khadia Nau Tola

Tehsil Duddhi District Sonebhadra without adopting the due procedures of Land Acquisition as well as contrary to the standard operating procedures/guidelines as prescribed by the CPCB dated 4.6.2012 under Section 18 (1) B of the Water Prevention and Control Pollution Act 1974 and Air Prevention and Control of Pollution Act 1981. It is further prayed that this Hon'ble Court may graciously be pleased to issue an ad interim mandamus directing the respondents to pay the compensation under the Rehabilitation Scheme as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013, if they acquire the aforesaid land afresh and further direct the respondents to provide Rehabilitation/Resettlement benefit in accordance with The Right To Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 before construction of the Wharf wall and allied works such as engine on the scape line, extension of bridge, weigh bridge and control room which are being constructed by the NCL Khadia Project Khadia District Sonebhadra through Senior Divisional Engineer East Central Railway Dhanbad Division/Deputy Chief Engineer (CON.) Renukoot Eastern Central Railway Renukoot

Sonebhadra. It is further prayed that this Hon'ble Court may graciously be pleased to issue an ad-interim mandamus restraining the respondents from dumping over burden of NCL Khadia Project Khadia Coal Mines within less than 50 mtrs from the houses of the petitioners creating severe pollution flouting the mandatory provisions of Environmental Protection Act 1986, Water Prevention and Control of Pollution Act 1974, Air Prevention and Control of Pollution Act 1981, The Coal Mines Regulation 1957, Hazardous Waste (Management and Handling and Transboundary Movement) Rules 2008 as well as standard operating procedures/guidelines as prescribed by the CPCB dated 4.6.2012 within stipulated time, otherwise the petitioner shall suffer irreparable loss and injury. And/or pass such other and further order which may deem fit and proper under the facts and circumstances of the case.

- 25.** That, the petitioner has no other effective, efficacious and alternative remedy except to approach this Hon'ble Court under Article 226 of the Constitution of India, inter-alia on the following amongst others--

G R O U N D S

- a)** Because compensation has been paid to the petitioners and other land/house evictees and as

they have been displaced due to acquisition of their land/houses so they have been granted residential plots at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra (then Mirzapur) in addition to compensation as under Rehabilitation and Resettlement package scheme and from then onwards total 87 plot holders including the petitioners are residing by building houses over their. It is very relevant to mention here that about 367.484 acres of land acquired for NTPC has been released/transferred to Eastern Railway for construction of Karela- Bina-Jayant Railway line and the rehabilitation of their land oustees in 1976-77 but till date these land have not been transferred in the name of railway in the revenue records and inspite of all the technical formalities completed by railways/ NTPC these transferred land yet not been entered into revenue records in the name of the railways rather in revenue records till date all these lands including the land in question on which petitioners have been allotted patta/residential plots in 1977 still in the name of NTPC in the revenue records. It is further submitted that Northern Coal Field Limited Singrauli had requested Divisional Railway Manager Eastern railway Dhanbad and Chief Engineer Eastern Railway Calcutta vide letters dated 14.9.1990 and 6.12.1990 for licensing out

17.45 acres of railway land required for Coal Handling Plant (CHP) at Khadia Project Khadia as the 17.45 acres of land was earlier with NTPC and had not been formerly handed over to the railway by NTPC. It is also very relevant to submit her that earlier to his Chief Revenue Officer Northern Coal Filed Limited Singrauli had also communicated to Senior Law Officer/Deputy Manager Law NTPC Shaktinagar (U.P.) vide letter dated 30.5.1990 and sought clarification/information regarding details of land transferred by NTPC to Eastern Railway in village Khadia and Chilkatand as they urgently required release of some land by railways for construction of Coal Handling Plant CHP of Khadia Project subsequently Deputy Manager Law NTPC Shaktinagar District Mirzapur (now Sonebhadra) had replied vide communication dated 1.6.1990 to Chief Revenue Officer NCL Singrauli and stated that- “ We acknowledge receipt of your letter no Rev/I-24/442 dated 30th May 1990 seeking certain information in regard to transfer of land by NTPC to Eastern Railway about 367,484 acres of land acquired for NTPC has been released to Eastern Railway for construction of Kairala –Bina –Jayant line and the rehabilitation of land oustees. This area is neither included in the land to be transferred to NCL as per the Minutes of the meeting of the

planning co ordination committee for the integrated development of Singrauli region held at Singrauli on 6th july 1984 nor the price thereof has been included in the amount of Rs 3,02,70,646.22 being the price of the land to be transferred to NCI by NTPC as per the above minutes. Payment of the aforesaid amount is pending for long time and has not so far been settled. We should once again request you to kindly settle the above amount for payment thereof at an early date.As per the minutes of meeting dated 6th july 1984 NCI's requirement of land belonging to Eastern Railway in this area will be settled between NCI and railway so you will take up the matter with the railways accordingly. " Thus from the perusal of the above mentioned communications between NCL NTPC and Eastern Railway during the period of 1990 it becomes crystal clear that from 1990 onwards Northern Coal Field Limited Khadia Project Khadia was requiring some land including the land inquestion over which petitioners have been granted patta and they were residing after construction their houses from 1977 onwards in lieu of their land/houses acquired by the railways for the construction of Karela --Bina- Jayant railway line but it has never been transferred to NCL for construction of Coal Handling plant at Khadia and now forcibly NCL authorities under the garb of

transportation of Coal by railways a trying to demolish the house of the petitioners and trying to dispossess them from their property without adopting due procedures of law under the Land Acquisition Act.

- b)** Because NTPC had transferred 367.464 acre land to the East Railway for the construction of Karela - Bina- Jayant railway line but from 1977 onwards the name of the railways have not been entered into the revenue records till date and in the revenue records these lands are in the name of NTPC and in regard to transfer of land in the name of railways many exercises/communications were taken place between the authorities concerned but no result till date. It is further submitted that NTPC had made several communications on 27.10.2004, 11.12.2007 and 21.3.2011 to the East Central railway in regard to transfer/mutation of 367.484 acre land which has been transfer to the railways for construction of Karela --Bina- Jayant railway line and the rehabilitation of land oustees of railways but no any action in regard to transfer /mutation has been taken by railways subsequently NCL from 1990 onwards was demanding some land from railways for the construction of CHP Coal Handling Plant in the close proximity of railways which is included in 367.4 acre land transferred by NTPC to the railways

but the name of the railways have not been entered into revenue records.

- c)** Because Divisional Railway Manager East Central Railway Dhanbad had communicated to District Magistrate Sonebhadra dated 3.4.2018 in regard to transfer/mutation of 367.484 acre land which has been transferred by NTPC limited Shaktinagar to the railway department for the construction of Karela -- Bina- Jayant railway line in 1977.
- d)** Because that 87 project affected families/land oustees have been granted residential plots at Nau Tola Village Khadia Pargana Singrauli Tehsil Duddhi District Sonebhadra by the railway department in lieu of their land/house acquisition during 1977 to 80 for the construction of Karela --Bina- Jayant railway line under the schemes of Rehabilitation/Resettlement alongwith compensation but NCL Khadia Project Khadia had started its operation and from 1990 onwards they were trying to construct CHP coal Handling Plant Unit/Wharf wall /Coal Loading unloading point in the close proximity of residential plots of the petitioners which is the land of the railways which have been allotted to them through Patta duly signed by Tehsildar Duddhi District Mirzapur (Now Sonebharda) and railway authorities but they fail to do so in want of sanctioned from the railway and

NTPC as the land has been transferred by NTPC to the railways but name of railways has not been recorded in the revenue records thus railway was not in position to transfer the same land to the NCL for aforesaid construction. It is very relevant to mention here that NCL Khadia Project had started dumping its over burden just 50 mtr away from the densely populated residential area of the petitioners having population of more than 10000 situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra and in this regard several complaints have been made by the petitioners and other elected representatives such as Gram Pradhan of Village Khadia before the authorities concern thorough representation and also they have approached personally before the Chief General Manager Khadia Project Khadia, District Magistrate Sonebhadra, SDM Duddhi and other concern authorities but no any action has been taken by the authorities concern. The Gram Pradhan of Village Khadia had communicated in this regard before the Chief General Manager NCL Khadia Project Shaktinagar Sonebhadra serving its copies to District Magistrate Sonebhadra and other concern authorities on 22.5.2020 and also handed over memorandum to concern authorities personally also in regard to

which news item had also been published in various News papers.

- e) Because that in the month of May 2020 NCL Khadia Project Khadia have started construction proceedings of Wharfwall/Coal Loading unloading point at Nautola Village Khadia Pargana Singrauli Tehsil Duddhi District Sonebhadra on the land/plots allotted to the petitioners and other 87 allottes by railway department under the Rehabilitation/Resettlement schemes in lieu of land/house acquisition for the construction of Karela --Bina- Jayant railway line in 1977-80 without adopting due procedures of law in regard to acquisition of the land/house/plots of the petitioners which was duly opposed by them and also communication had been made to District Magistrate Sonebhadra serving its copies to other concerned authorities.
- f) Because on the representation/objection of the other allottes of plots/houses /land situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra in regard to forcefull dispossession for the construction of Wharfwall near/on the plots/houses/land of the petitioners which have been allotted to them under the Rehabilitation/Resettlement schemes by railway department in lieu of land/house acquisition for the

construction of Karela --Bina- Jayant railway line in 1977 District Magistrate Sonebhadra had directed SDM Duddhi to coordinate with the NCL, Railway and NTPC authorities and to look into the matter and further directed to resolve the grievance of the petitioners and other allottees/resident of Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra and until then construction of Wharfwall has been stopped but again in 2021 NCL Khadia Project Khadia had started construction of Wharfwall at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra on /near the plot/house/land of the petitioners and other allottees without following the due procedures of law in regard to acquisition of their land/houses/plot which was again vehemently opposed by the petitioners and other local resident of the area subsequently NCL authorities have organized meeting with the affected families including petitioners and at that time in the presence of SDM Duddhi they have stated that the concern of affected families including the petitioners will always be considered before starting the construction of wharfwall and if necessary then either project will be shifted elsewhere or acquisition proceedings will be done and the project affected families including petitioner will be shifted. It is very relevant to mention here that again Gram pradhan

on behalf of the project affected families/villagers Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra had approached before District Magistrate Sonebhadra through representations dated 1.10.2021 serving its copies to other concern authorities and prayed for necessary action and kind indulgence of the administration into the whole matter as its relates to the deprivation of property of the local residents as well as human life also. It is further submitted that NCL authorities in collusion with local administration were trying to suppress the voices raised by petitioners and other villagers opposing the construction of above mentioned Wharfwall without adopting the due procedure of law or acquiring the land /houses of the affected villagers including the petitioners which is evident from one proceeding initiated by SHO shaktinagar against local residents Nand Lal Verma who have been challaned and sent to jail on 3.9.2021 under Section 151/107/116 CRPC.

- g)** Because again in 2022 construction of Wharfwall have been started in full flow inspite of objection of the petitioners and other local residents with the help of the local administration specially police department who is continuously threatening petitioners and other local resident to falsely implicate and criminal cases and sent them jail and

surprisingly Sonebhadra administration kept silence over this issue and further a meeting has been organized under the Chairmanship of District Magistrate Sonebhadra including Regional Pollution Control Board Officer Sonebhadra, Additional District Magistrate Sonebhadra, SDM Duddhi, CO Duddhi, Chief General Manager NCL Khadia Project Sonebhadra and Deputy Chief Engineer CON Renukoot ECR Renukoot Sonebhadra on 10.8.2022 at Collectorate Sonebhadra for establishment of Wharfwall/railway siding/Coal Loading unloading Point for transportation of coal by railways in which point wise detail discussion has been made by the concerned authorities in regard to establishment of aforesaid wharfwall/railway siding of NCL Khadia Project and further directions by District Magistrate have been issued to complete the ongoing construction of aforesaid wharfwall within time limit as it was informed by the NCL authorities that Senior Divisional Engineer East Central Railway had given their consent for constructing remaining part of wharfwall and other work like scape line on engine, extension of bridge, weigh bridge and control room by the consent letter dated 21.12.2021 and advance of rs. 5127208.55 had already been deposited with railways for construction estimate and also more than 60% works of wharfwall have been completed.

It is very relevant to mention here that not a single word by the concerned authority in regard to acquisition of land/houses of the project affected families including petitioners of Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra on whose land/houses/plots aforesaid construction is being going on have been stated neither any order have been passed by the District Magistrate inspite of the pending representations of the petitioners and other project affected families objecting the construction of the above mentioned wharfwall without adopting the due procedure of law and acquiring the land/house of the petitioners.

- h)** Because again petitioners and other resident of Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra who are being affected by the ongoing construction of wharfwall/railway siding on their land /house /plots which has been allotted to them through patta duly signed by Tehsildar Duddhi and officials of East railway under the Rehabilitation/Resettlement schemes in lieu of their land/houses acquired by the East railway for the construction of Karela --Bina- Jayant railway line in 1977 and form then onwards they were residing have approached before the District Magistrate Sonebhadra serving its copies to other concerned authorities objection the ongoing construction of

Wharfwall and duping of over burden less than 50 mtr away from their residential colony on 12.11.2022 but till date no any action has been taken place subsequently they have approached the local elected representative of the area likewise MLA Duddhi Ram Dulare Gon, Member of Parliament Robertsganj Mr. Pakaudi Lal Kol and on their instruction again a meeting has been organized between the railway, NCL, NTPC authorities and SDM but no any solution to their grievance had been made and now as the construction of aforesaid wharfwall had reached on their plots/houses and they are under serious threat of dispossession rather officials of NCL and local administration is continuously threatening them that this land have already been transfer by Railways to the NCL authority for the construction of wharfwall whereas the real fact is that till date the land has not been transfer in the name of railway and neither railways have transferred single piece of land to the NCL for any type of construction and there is no any document available with them in regard to transfer of land and acquisition of land for construction of wharfwall and they are doing construction of wharfwall illegally. It is very relevant to mention here that petitioners have the vested right of being rehabilitated as such they have been rehabilitated

and have been granted residential plots through patta certificate duly signed by Tehsildar duddhi District Mirzapur and East railway officials in lieu of their land /houses acquired for the construction of Karela --Bina- Jayant railway line in 1977 whereas NCL Khadia have neither acquired the lan over wihc they were construction wharfwall nor it has been till date transferred by railway department to the NCL authorities thus the whole construction is being done illegally and it is one of the glaring example of colorable exercise of power malicious intent and collusion of state authorities in depriving the petitioners and other local resident from their legitimate rights without adopting the due procedures of law which has been guaranteed under Article 300 A of the constitution of India.

- i) Because that Coal India to ensure a humane, participatory, informed consultative and transparent process for land acquisition for coal mining and allied activities with the least disturbance to the owners of the land and other affected families and to provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for loss of livelihood of such affected persons including their rehabilitation and resettlement benefits formulated

Resettlement and Rehabilitation Policy, 2012 based on the deliberations of the inter ministerial committee set up vide O.M. 490191/2011-PR/W-1 dated 1.7.2011 of Ministry of Coal, deliberations of the CMD's meet held on 5.3.2012 at New Delhi and has been approved by the CIL Board in its 279th meeting held on 12th and 13th March, 2012, this revised Rehabilitation and Resettlement Policy, 2012 adopted liberal policy which enables the land loser to chose between various options and adopt the package which best suits oustees/project affected families needs.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- i.** issue a writ, order or direction in the nature of mandamus directing the respondents not to interfere into the peaceful possession of houses built over plots situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra allotted to the petitioners by the Eastern Central railway, Dhanbad Division in lieu of acquisition of their houses for first phase construction of Karela- Bina-Jayant Railway line during 1977.
- ii.** issue a writ, order or direction in the nature of mandamus restraining the respondents from doing construction of Wharf wall (railway siding/coal

loading unloading point) which is being constructed by NCL Khadia forcefully over the plots of the petitioners situated at Village Khadia Nau Tola Tehsil Duddhi District Sonebhadra without adopting the due procedures of Land Acquisition.

- iii.** issue a writ, order or direction in the nature of mandamus directing the respondents to pay the compensation under the Rehabilitation Scheme as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013, if they acquire the aforesaid land afresh.
- iv.** issue a writ, order or direction in the nature of mandamus, directing the respondents to provide Rehabilitation/Resettlement benefit in accordance with The Right To Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 before construction of the Wharf wall and allied works such as engine on the scape line, extension of bridge, weigh bridge and control room which are being constructed by the NCL Khadia Project Khadia District Sonebhadra through Senior Divisional Engineer East Central Railway Dhanbad Division/Deputy Chief Engineer (CON.) Renukoot Eastern Central Railway Renukoot Sonebhadra.

- v. issue a writ, order or direction in the nature of mandamus restraining the respondents from dumping over burden of NCL Khadia Project Khadia Coal Mines within less than 50 mtrs from the houses of the petitioners creating severe pollution flouting the mandatory provisions of Environmental Protection Act 1986, Water Prevention and Control of Pollution Act 1974, Air Prevention and Control of Pollution Act 1981, The Coal Mines Regulation 1957, Hazardous Waste (Management and Handling and Transboundary Movement) Rules 2008 as well as standard operating procedures/guidelines as prescribed by the CPCB dated 4.6.2012.
- vi. issue such other and further writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.
- vii. award the cost of the writ petition.

dated:-

(ABHISHEK KUMAR CHAUBEY)
Advocate

//True Typed copy//





ANNEXURE-R/2

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

COUNTER-AFFIDAVIT

ON BEHALF OF RESPONDENT NOS. 3 AND 7

IN

CIVIL MISC. WRIT PETITION NO. 2243 OF 2023
(Under Article 226 of the Constitution of India)

(DISTRICT :: SONEBHADRA)

1. Arvind Prasad s/o late Sudarshan Prasad R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
2. Jyoti Swaroop Verma s/o Shiv Narayan Verma R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
3. Ramesh Chand S/o Bhadar R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
4. Mainuddin Ansari S/o Mohammad Isha R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
5. Zahidunisha w/o late Mohd. Isha R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
6. Rajaram Gupta S/o Nathai Gupta R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
7. Munib S/o Nathai R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
8. Rudra Gupta S/o Munib gupta R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
9. Om Prakash Verma S/o Satyanarayan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
10. Chunnur @ Satyanarayan S/o Laxman R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
11. Laleram S/o Baburam R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
12. Shriram S/o Sarju R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
13. Nand Lal Verma S/o Shriram Verma R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.

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14. Ramkishor S/o Ram Adhar R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
15. Ravi Chandra, S/o Baboonandan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
16. Manti W/o Hari Prasad R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
17. Tilakdhari S/o Rambhraos R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
18. Vishram S/o Ramlakhan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
19. Narayan das S/o Ram Lakhan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
20. Setpal Verma S/o Ramraksha R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
21. Rajendra Prasad Verma S/o late Sarju R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
22. Chhote Lal S/o late Gone R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
23. Durgesh Kumar Patel S/o Sohan Lal R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
24. Sohan Lal Patel S/o Rudra Prasad R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
25. Setpati Devi W/o Rudra Prasad Patel R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
26. Chauras W/o late Shivdhan R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
27. Raj Kumar Patel S/o Shivdhan R/o Khadia Bazar Yogichaura, Shaktinagar District Sonebhadra.
28. Ramwati Devi W/o Chhotkan Patel R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
29. Ramlalla Verma S/o Sarju R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.
30. Narendra Kumar S/o Chhote Lal R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.

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31. Rameshwar Prasad, Son of Harkhu, R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.

32. Suresh, S/o Kishun, R/o Khadia Bazar Yogichaura Shaktinagar District Sonebhadra.

....Petitioners

VERSUS

1. Union of India through Principal Secretary, Ministry of Coal, New Delhi.
2. State of UP through Principal Secretary Revenue Government of U.P. at Lucknow.
3. Chief Managing Director, Northern Coalfields Limited, Singrauli, District Singrauli, M.P.
4. General Manager, Eastern Central Railway, Hazipur, Bihar.
5. Divisional Railway Manager, Dhanbad, Eastern Central Railway, Dhanbad, Jharkhand.
6. Chief Managing Director N.T.P.C. Limited N.T.P.C. Bhawan Lodhi Road New Delhi.
7. Chief General Manager, Khadia Project, Northern Coalfields Limited P.O. Khadia, District Sonebhadra.
8. District Magistrate Sonebhadra.
9. Superintendent of Police, Sonebhadra.
10. Senior Divisional Engineer, East Central Railway, Dhanbad Division Jharkhand.
11. Deputy Chief Engineer (CON.) Renukoot, East Central Railway Renukoot Sonebhadra.
12. Regional Pollution Control Board Officer, Sonebhadra, Regional Pollution Control Board Sonebhadra.
13. Sub Divisional Magistrate, Duddhi, District Sonebhadra.
14. Manager (Security/Revenue) Khadia Project Northern Coalfields Limited. P.O. Khadia, District Sonebhadra.

....Respondents

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Affidavit of Jitendra Kushram aged about 29 years, Son of Sri Hari Singh Kushram, Hindu by Religion, Presently Posted as the Mining Surveyor/ Revenue Inspector, Northern Coalfields Limited, Khadia Project, P.O.-Khadia, District-Sonbhadra.

DEPONENT

I, the deponent, abovenamed, do hereby solemnly affirm and state on oath as Under:-

1. That the deponent is Presently Posted as the Mining Surveyor/ Revenue Inspector, Northern Coalfields Limited, Khadia Project, P.O.-Khadia, District-Sonbhadra. He belongs to Hindu religion and has been authorized to look after the aforesaid/present writ petition on behalf of the Respondent Nos. 3 and 7 before this Hon'ble Court, and as such, the deponent is fully acquainted with the facts deposed to below.
2. That the contents of the writ petition (here in after also referred to as "the petition") and its annexure have been read over and explained to the deponent, who has fully understood the contents of the same, and he is in a position to reply the same.
3. That the contents of paragraph no. 1 of the writ petition are the matters of record, and the same can be verified from the record itself.
4. That the contents of paragraph no. 2 of the writ petition are the matters of record, and the same can be verified from the record itself.

Jitendra Kushram

5. That in reply to the contents of paragraph no. 3 of the writ petition, it is respectfully submitted that the Coal dispatch through Merry-Go-Round (MGR) system is being done with CHP (Coal Handling Plant) of 10.0 MTY capacity. Remaining coal is being dispatched to the consumers through other modes, including road. For compliance of the National Green Tribunal Order (i.e. reduction in road dispatch and increase in rail dispatch) and to enhance the coal dispatch through rail, wharf wall is being proposed. The NGT in its Order dated 12.12.2022 (OA no. 113/2020) directed for early completion of wharf wall construction. Since, wharf wall is to be made in conjugation with railway line therefore proposed wharf wall construction has to be done at existing old KBJ line.

Copy of the Order dated 12.12.2022 passed by the NGT in OA No. 113/2020 is being filed herewith and marked as **Annexure No. 1** to this affidavit.

It is further respectfully submitted that the construction site is under the ownership of Northern Coalfields Limited (NCL), Singrauli as per revenue record of the State of Uttar Pradesh, and also the proposed site (Village-Khadia) was acquired by Northern Coalfields Limited, Singrauli as per the S.O. No. 2081 dated 29.06.1981 and S.O. No 3303 dated 17.11.1981 by the Government of India under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957.

Copy of the S.O. No. 2081 dated 29.06.1981 is being filed herewith and marked as **Annexure No. 2** to this affidavit.

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Copy of the S.O. No 3303 dated 17.11.1981 is being filed herewith and marked as **Annexure No. 3** to this affidavit.

As per petitioners' grievances that the NCL wants to demolish the houses and trying to dispose of villagers, is not factually correct. No interference/displacement has been proposed on the plots/houses allotted to 87 families, and therefore, Rehabilitation and Resettlement (R&R) is not applicable in the facts and circumstances of the present case.

NCL had awarded consultancy work for scientific study of the air pollution impacts and Pollution Control / Mitigation Measures to IIT BHU, Varanasi. The report has been received and the recommendations suggested by IIT-BHU in the study shall be complied.

Expected benefits of wharf wall:-

- To ensure energy security of Nation through supply of coal to upcountry thermal power plants by rail mode.
 - Reduction in vehicle movement (approx. 500 trips by tippers) leading to less pollution and dust generation on roads.
 - Improvement in road safety and better living conditions.
6. That the contents of paragraph no. 4 of the writ petition are the matters of record, and the same can be verified from the record itself.

Joshi

7. That the contents of paragraph no. 5 of the writ petition are the matters of record, and the same can be verified from the record itself.
8. That the contents of paragraph no. 6 of the writ petition are the matters of record, and the same can be verified from the record itself.
9. That in reply to the contents of paragraph no. 7 of the writ petition, it is respectfully submitted that the construction site is under the ownership of Northern Coalfields Limited (NCL), Singrauli as per the revenue records of State of Uttar Pradesh and also the proposed site (Village-Khadia) was acquired by Northern Coalfields Limited, Singrauli as per the aforesaid S.O. no. 2081 dated 29.06.1981 and the aforesaid S.O. no. 3303 dated 17.11.1981 by the Government of India under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957.
10. That in reply to the contents of paragraph no. 8 of the writ petition, it is respectfully submitted that the work of construction of CHP is related to village Chilkadand and not to village Khadia and also that the land-in-question and wharf wall is being constructed in village Khadia.
11. That the contents of paragraph no. 9 of the writ petition are the matters of record, and the same can be verified from the record itself.
12. That in reply to the contents of paragraph no. 10 of the writ petition, it is respectfully submitted that the wharf wall is being

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constructed by the Khadia project on the land of village Khadia already acquired earlier in the mine limits and the OB (Over Burden) dump has been done 20 years ago at a distance of about 100 meters.

13. That in reply to the contents of paragraph no. 11 of the writ petition, it is respectfully submitted that the construction site is under the ownership of the Northern Coalfields Limited (NCL), Singrauli as per revenue records of the State of Uttar Pradesh and also the proposed site (Village-Khadia) was acquired by the Northern Coalfields Limited, Singrauli as per the aforesaid S.O. no. 2081 dated 29.06.1981 and the aforesaid S.O. no. 3303 dated 17.11.1981 by the Government of India under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957.

As per petitioners' grievances that the NCL wants to demolish the houses and trying to dispose of villagers, is not factually correct. No interference/displacement has been proposed on the plots/houses allotted to 87 families, and therefore, Rehabilitation and Resettlement (R&R) is not applicable in the facts and circumstances of the present case.

14. That the contents of paragraph nos. 12 and 13 of the writ petition, as stated, are not admitted. Correct and complete facts have already been stated herein before, and the same are reiterated.
15. That the contents of paragraph no. 14 of the writ petition, as stated, are not admitted. In reply, it is respectfully submitted that the construction of the wharf fall is being done according to

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the standard by the Khadia project and the OB (Over Burden) dump was done 20 years ago at a distance of 100 meters.

16. That the contents of paragraph no. 15 of the writ petition, as stated, are not admitted. With regard to Consent to Establish and Consent to Operate for Wharfwall (Railway Siding) at Khadia OCP (Open Cast Project), the following submitted that :-

- A. The Consent to Establish and Consent to Operate for Khadia Opencast Mine from the U.P. Pollution Control Board has been obtained.

Copy of the consent obtained from the U.P. Pollution Control Board is being filed herewith and marked as Annexure No. 4 to this affidavit.

- B. For inventorization of the Railway Sidings and for their Environment Management, Central Pollution Control Board has published in guidelines in March, 2015. In these guidelines, guidelines issued by the OSPCB (Odisha State Pollution Control Board) has been included (at page no. 153 of the guidelines) as a guiding factor. Para 2 (iii) of guidelines issued by OSPCB (Odisha State Pollution Control Board) states that "*Mineral Stock yard or railway siding located within the premises of industry/mines which are already covered under consent administration will not require separate consent.*"

Copy of the guidelines is being filed herewith and marked as Annexure No. 5 to this affidavit.

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The Wharfwall being constructed at Khadia Area is within the leasehold area of Khadia Opencast Project, for which the aforesaid consent is valid.

C. In the Original Application no. 164/2018, Hon'ble National Green Tribunal in its order dated 28.08.2018 has directed that *"...The coal mines shall ensure that transportation of coal shall only be either by railway wagons or by the dedicated conveyor system. No transportation of coal shall be permitted by road to any of the industries in the Singrauli Area, as recommended earlier also. ..."*

Copy of the order dated 28.08.2018 passed by the NGT is being filed herewith and marked as **Annexure No. 6** to this affidavit.

Wharfwall is more or less an infrastructure facility created for railway wagon loading to transport coal through rail mode. The construction of wharfwall is being done for the compliance of aforesaid direction.

D. Regarding the construction of Wharfwall, a prior information has been provided to both oversight committee constituted by the Hon'ble National Green Tribunal, New Delhi in the matter of OA No. 164/2018 and to the U.P. Pollution Control Board on 03.10.2020 and 17.08.2020 respectively.

Copy of the relevant papers are being filed herewith and marked as **Annexure No. 7** to this affidavit.

17. That the contents of paragraph no. 16 of the writ petition are the matters of record, and the same can be verified from the record itself.

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18. That the contents of paragraph no. 17 of the writ petition, as stated, are not admitted. In reply, it is respectfully submitted that :-

i. With regard to the discharge of contaminated water as alleged in the writ petition, following may please be noted -

a. Khadia Opencast Project is equipped with Effluent Treatment Plant of 38.4 MLD capacity. The waste water from CHP, Workshop and mine water is treated in the Effluent Treatment Plant and the treated water is reused in dust suppression, fire fighting, green belt development etc.

b. Khadia Opencast Project is working on Zero Liquid Discharge condition and no water is allowed to exit mine premises.

c. Khadia OCP (Open Cast Project) does not face problem of acid mine drainage and no acidic water is being discharged from Khadia OCP (Open Cast Project).

ii. With Regard to dumping of overburden by Khadia Opencast Project, following points may please be noted -

a. The dumping of overburden at Khadia Area is being done as per Environmental Clearance granted to Khadia OCP (Open Cast Project) by the MoEF&CC (Ministry of Environment Forest and Climate Change) and as per approved Project Report, within the earmarked area only

b. The overall slope of the dump is being kept with 28°.

c. Retaining wall, gabion wall, drain etc. is being constructed at the toe of the dump.

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d. Regular plantation is being done on slope of overburden dumps. The details of plantation done in last 05 years on slope of overburden dump is as below :-

Sl. No.	Financial Year	Area of overburden dump slope planted	No. of plants
1	2018-19	12 Ha	30,000
2	2019-20	10 Ha	25,000
3	2020-21	8.5 Ha	21,250
4	2021-22	20 Ha	50,000
5	2022-23	33 Ha	82,500

iii. With regard to allegation made for discharge of harmful gases during operationalisation of wharfwall, following may please be noted:-

For the purpose of pollution control measures, a study has been conducted through the Indian Institute of Technology, Benaras Hindu University (IIT-BHU), Varanasi. The recommendation of the study enclosed herewith as Annexure-E. The recommendations given by the IIT-BHU, Varanasi will be followed by Khadia Area, during the operationalisation of Wharfwall.

19. That the contents of paragraph no. 18 of the writ petition, as stated, are not admitted. In reply, it is respectfully submitted that :-

Khadia Opencast Project is taking due care to mitigate the environmental impacts associated with mining operations and

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allied activities. The details of Air Pollution Control Measures and Water Pollution Control Measures are as below:-

Details of Air Pollution Control Measures-

- Mobile water sprinklers are deployed on haul roads.
- Majority of coal is being transported through MGR (Rail Transport).
- Fixed sprinklers around coal yard - I
- Drills are provided with dust extractors.
- Approach road to mines are covered with black topping.
- Wetting of ROM coal before crushing in CHP.
- Fully enclosed coal handling plant in operation.
- Automatic water sprinklers are installed at receiving pit.
- Routine maintenance and periodic over hauling of HEMM.
- Thick green belts along mine and colony are provided.
- Vegetative covers are provided on non-active O.B. Dump
- Deployment of truck mounted fog cannon (02 nos.) and Road sweeping machines (02 nos.)
- Deployment of four no. of fixed fog cannon.
- Cement Concrete Road of 6.61 KM has been constructed.

Details of Water Pollution Control Measures-

- Operation of Effluent Treatment Plant for treatment of mine effluent. Treated effluents are being reused in dust suppression and firefighting.

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- Operation of Sewage Treatment Plant for treatment of domestic sewage. Treated effluent is being reused in horticulture.
 - Provision of retaining wall, gabion wall, garland drains, catch drains, sedimentation ponds etc.
 - Rain water harvesting pits for recharge of ground water.
20. That the contents of paragraph no. 19 of the writ petition, as stated, are not admitted. In reply, it is respectfully submitted that the Khadia Opencast Project is a coal mine. Fly ash means and includes all coal or lignite ashes generated at the thermal power plants such as electrostatic precipitator (ESP) ash, bag filter or dry ash, bottom ash, pond ash and mound ash. But no such fly ash is generated in khadia project during mining and allied activities.

It is pertinent to mention here that no chemical processing / burning of coal is being done by Khadia Area, NCL during its course of operation and hence, the chances of pollution of nearby water bodies by heavy metals such as mercury is minimal.

21. That the contents of paragraph no. 20 of the writ petition, as stated, are not admitted. In reply, it is respectfully submitted that the recommendations given by oversight committee(s) are being followed. Construction of the Wharfwall (Wharfwall is more or less an infrastructure facility created for railway wagon loading to transport coal through rail mode) is being done for the compliance of the one of the recommendation of the Hon'ble NGT, New Delhi, and thereafter, oversight committee for reduction of road transportation.



22. That the contents of paragraph no. 21 of the writ petition, as stated, are not admitted. In reply, it is respectfully submitted that the environmental parameters of the Singrauli region have improved, which can be corroborated through the Comprehensive Environmental Pollution Index (CEPI Index). CEPI is a pollution index devised and calculated by Central Pollution Control Board to represent the overall environmental scenario of a particular area. The CEPI index for Singrauli region (including U.P. and M.P. portion) has improved from 81.73 (as assessed in 2010) to 62.59 (as assessed in 2018).

Various steps have been taken by Khadia Area of NCL for improvement in environmental parameters such as deployment of fixed fog cannon (04 nos.), Deployment of truck mounted fog cannons (02 nos.), deployment of road sweeping machine (02 nos.), massive plantation, construction of CC (Cement Concrete) road within mine premises etc. Further, during the operationalisation of Wharfwall, the recommendation made by IIT-BHU, Varanasi will be followed.

23. That the contents of paragraph no. 22 of the writ petition, as stated, are not admitted. In reply, it is respectfully submitted that the Wharfwall is being constructed to comply the direction given by the Hon'ble National Green Tribunal, New Delhi regarding transportation of coal through rail wagon/conveyor belt and with due procedure of law.
24. That the contents of paragraph no. 23 of the writ petition are legal and argumentative in nature, and the same shall be suitably replied to at the time of arguments.



It is, however, respectfully submitted that the Wharfwall is being constructed to comply the direction given by the Hon'ble National Green Tribunal, New Delhi regarding transportation of coal through rail wagon/conveyor belt and with due procedure of law.

25. That in reply to the contents of paragraph no. 24 of the writ petition, it is respectfully submitted that in view of the facts and circumstances stated herein before, the prayers made by the petitioners in the paragraph under reply are completely misconceived, and the same are liable to be rejected.
26. That the contents of paragraph no. 25 of the Writ Petition are argumentative in nature, and the same will be suitably replied to at the time of arguments. It is, however, submitted that the contentions raised in the paragraph under reply are misconceived and wrong. It is further submitted that neither any of the Grounds alleged in the paragraph under reply exists, nor does the Writ Petition lie on any of the said Grounds. The Writ Petition filed by the petitioner is liable to be dismissed in any view of the matter.
27. That it is pertinent to state here that a similar case against construction of the wharfwall is under consideration at Hon'ble National Green Tribunal, New Delhi in OA no. 113/2020 (MA No. 94/2022) (Ramesh Chander Verma & Others v/s State of Uttar Pradesh). In that case, Hon'ble National Green Tribunal in its order dated 13.02.2023 has directed for early construction of wharfwall and also levied environmental compensation of Rs. 05 Crore for delay in construction of Wharfwall. The aforesaid order was challenged before the Hon'ble Supreme Court of India, and the Hon'ble Supreme Court has stayed the order of Hon'ble

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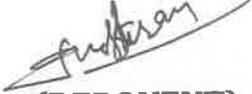
NGT dated 13.02.2023 and matter is subjudice at Hon'ble Supreme Court.

Copy of the order passed by the Hon'ble Supreme Court is being filed herewith and marked as **Annexure No. 8** to this affidavit.

28. That it is expedient in the interest of Justice that the present counter affidavit being filed on behalf of the Respondent Nos. 3 and 7 in the aforesaid matter be taken on record and be considered at the time hearing of the aforesaid matter, as otherwise, the Respondent Nos. 3 and 7 will suffer irreparable loss and injury.

I, the deponent, abovenamed, do hereby solemnly affirm and swear that contents of paragraph Nos. **1 and 2** of this affidavit are true to my personal knowledge; those of paragraph Nos. **3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 27** of this affidavit are based on perusal of records; those of paragraph Nos. **NIL** of this affidavit are based on information received; those of paragraph Nos. **26 and 28** of this affidavit are based on legal advice; which all I believe to be true; that no part of this affidavit is false and nothing material facts has been concealed in it.

So Help Me God.


(DEPONENT)

I, Pranjal Mehrotra, Advocate, High Court, Allahabad do hereby declare that the person making this Counter Affidavit and alleging himself to be the deponent is known to me and I am satisfied that he is the same person.

(ADVOCATE)



Solemnly affirmed before me on this 15 day
of August, 2023 at _____ by the deponent who has
been identified by the aforesaid person.

I have satisfied myself by examining the deponent that he
fully understands the contents of the Counter Affidavit, which
have been read over and explained to the deponent by me.

OATH COMMISSIONER

TRUE COPY



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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No.1528/2023

NORTHERN COALFIELDS LTD. KHADIA PROJECT ...Appellant(s)
VERSUS
THE STATE OF UTTAR PRADESH & ANR. ...Respondent(s)

O R D E R

1. This appeal by Northern Coalfields Ltd. is against the order of the National Green Tribunal, Principal Bench in Original Application No. 113/2020 dated 13.02.2023 directing the appellant to pay compensation of Rs.5 crores, which is 10% of the project cost towards environmental violations and remedying the resultant damage.

2. The grievance in the Original Application before the Tribunal related to construction of a Wharf Wall (platform for storing coal and flyash) by the appellant herein. Respondent No.2, a local resident wrote a letter to the Tribunal on 08.06.2020 highlighting the adverse impacts being caused due to construction of the wharf wall. The Tribunal treated the letter as an original application and numbered it as OA No. 113/2020.

3. Thereafter, the Tribunal by its order dated 14.10.2020, directed the Uttar Pradesh Pollution Control Board and the District Magistrate to look into the grievance and take further action. UPPCB was directed to be the nodal agency for coordination and compliance. Pursuant to the direction, the authorities conducted an

inspection on 23.01.2021 and the UPPCB submitted a report on 27.02.2021 to the Tribunal indicating the measures to be undertaken by the appellant. After taking note of the report, the Tribunal by its order dated 23.08.2021 directed the appellant, although not a party to the proceedings, to take remedial measures and send its compliance report to the UPPCB and also to an Oversight Committee constituted by this Tribunal. Accordingly, compliance reports were filed by the appellant on 15.10.2021, 24.11.2021, 04.03.2022, 05.08.2022 and 11.02.2023. In fact, the Oversight Committee in its meeting dated 18.10.2021 was of the view that the appellant has undertaken such remedial measures as directed by the Tribunal.

4. The grievance of the appellant is that it had been complying with all the directions and filed the necessary reports, however, all of a sudden, a penalty in the nature of compensation of Rs.5 crore was imposed without any justification whatsoever. We have examined the matter and it is true that that appellant has been complying with the directions of the Tribunal and had also been filing affidavits before the Tribunal.

5. The appellant submits that they have taken every effort to reduce pollution and had in fact brought to the notice of the Tribunal the hindrance caused by the locals while the wharf wall was being constructed. They had referred to the various compliance reports and had in fact submitted that they have meticulously followed the report of the committee dated 27.02.2021.

6. Having considered the matter in detail, we are of the opinion that imposition of compensation of Rs.5 crore, which is 10% of the project cost for past violations and for liability to remedy the situation, is not justified. We take note of the fact that the Tribunal is continuing to monitor the case. The decision about the imposition of compensation can nevertheless be taken after giving an opportunity of hearing to all the parties.

7. Accordingly, we allow the appeal, set aside the order passed by the National Green Tribunal, Principal Bench to the extent of imposition of Rs.5 crores as penalty.

8. Pending application(s), if any, shall stand disposed of.

....., J.
(PAMIDIGHANTAM SRI NARASIMHA)

....., J.
(ARAVIND KUMAR)

NEW DELHI;
APRIL 19, 2024.

ITEM NO.51

COURT NO.16

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.1528/2023

NORTHERN COALFIELDS LTD. KHADIA PROJECT

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.

Respondent(s)

(IA No. 46364/2023 - EX-PARTE STAY)

Date : 19-04-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Mr. Chandra Prakash, Adv.
Mr. Ashutosh Thakur, Adv.
Mr. Aabhas Parimal, Adv.
Mr. Neeraj Shekhar, AOR

For Respondent(s) Mr. Manish Tiwari , AOR
Mr. Manish Tiwari, Adv.
Mr. Abhishek Kumar Chaubey, Adv.
Mr. R.K. Tanwar, Adv.
Mr. Nihar Ranjan Singh, Adv.

Mr. Pradeep Misra, AOR
Mr. Suraj Singh, Adv.
Mr. Bhuwan Chandra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

This appeal is allowed and set aside the order passed by the National Green Tribunal, Principal Bench to the extent of imposition of Rs.5 crores as penalty, in terms of the Signed Order placed on the file.

Pending application(s), if any, shall stand disposed of.

(VIJAY KUMAR)
COURT MASTER (SH)

(NIDHI WASON)
COURT MASTER (NSH)