

218

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
ORIGINAL APPLICATION NO. 39 OF 2020 (EZ)**

IN THE MATTER OF:

SANJAY CHAUHAN

... APPLICANT

VERSUS

CENTRAL COALFIELDS LTD. & ORS.

... RESPONDENTS

INDEX

S.No.	PARTICULARS	Page No.
1.	REJOINDER FILED BY THE APPLICANT TO THE AFFIDAVIT FILED BY JSPCB DATED 04.05.2022	219-225

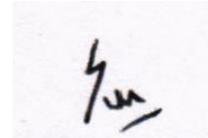
THROUGH



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DATE: - 7.07.2022

**BEFORE THE NATIONAL GREEN TRIBUNAL
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**REJOINDER FILED BY THE APPLICANT TO THE AFFIDAVIT FILED BY
JSPCB DATED 04.05.2022**

MOST RESPECTFULLY SHOWETH:

1. That the applicant has filed the abovementioned application under Section 14 of the National Green Tribunal Act, 2010 raising the substantial questions of environment relating to the non – compliance of the conditions of the environmental clearance granted to the Piparwar Opencast Coal Mine located in the North Karanpura region of Jharkhand.
2. That vide it's Order dated 22.06.2020 this Hon'ble Tribunal had appointed a Joint Committee comprising of (i) Dr. Sharatchandra Lele (ii) Representative of Regional Office of MoEF&CC (iii) Representative of CPCB (iv) Representative of SPCB. This Joint Committee has submitted it's Report to the Hon'ble Tribunal to which the response of the Applicant is as follows:-

(i) The Joint Committee observed that MoEF&CC has submitted a monitoring report dated 15.02.2019 in which various instances of non-compliance with EC were noted.

The major issues noted in this report were:-

- a. Various instances of Non-compliance of EC conditions were noted. **(Page 120)**

- b. Delayed construction of dedicated railway siding (at Rajdhari) **(Page 121)**
- c. Poor arrangements for coal dust suppression and run off collection at the currently used railway siding at Bachra. **(Page 121)**
- d. Poor management of storm water drains and high level of pollution in effluents from workshop **(Page 121)**
- e. **On the issue of cumulative impact assessment and carrying capacity study for the north Karanpura area-**That the Joint Committee in point 5 of the Report states to the effect that North Karanpura coalfields has a large number of coal deposits. Therefore the Joint Committee envisages a need for a Cumulative Impact Assessment of these developments and urges that a process for regional-scale environment carrying capacity estimation be carried out.

However, the Representative of the JSPCB disagrees with this suggestion of the Joint Committee and recommends that it would be better instead to ensure 100% compliance of existing EC conditions alongwith compliance of order of Hon'ble NGT in OA 284/2019 dated 19.09.2019 which states that all mines in the nearby area using road for coal transportation should maintain a free board of minimum 5 cm in all loaded vehicle along with properly covering with impervious material to escape of fines.

Response to Affidavit dated 04.05.2022 of JSPCB

3. It is stated that a perusal of the Affidavit dated 04.05.2022 filed by JSPCB shows that the JSPCB has failed to address the above-mentioned issues which the Joint Committee Report had highlighted earlier. In response to the Affidavit dated 04.05.2022 it is stated that it has also been recommended to take action for not constructing Railway siding, within the scheduled time mentioned in EC granted in 2014. It is stated by the Applicant that inspite of the above shortcomings and violation of EC conditions the JSPCB has continued to issue Consent to Operate to the Project as mentioned in para 6 of the Affidavit dated 04.05.2022, the last one being a Consent to Operate dated 26.03.2020 valid till 10.06.2020 after which the unit had been closed.

Secondly, the Affidavit of JSPCB directs that "...the name of the official(s) responsible for non-installation of Ambient Air Quality Monitoring Station be given. It is stated that when it is known to JSPCB that there is a non-compliance of EC conditions by CCL then it ought to take action against CCL by cancelling it's Consent to Establish and Operate and not ask for name of individual officers of CCL. The violation by any officer of CCL is an internal matter of CCL. No such action has been taken by the JSPCB till date against CCL.

MoEF&CC and SPCB has failed to take action against CCL even when non-compliance of EC conditions is known to MoEF&CC

4. It is stated that both the MoEF&CC and JSPCB have remained mute spectators when there have been many EC conditions non-compliances by CCL. The MoEF&CC had merely issued a monitoring report dated 15.02.2019 in which various instances of non-compliance with EC were noted.

5. That it is stated that the JSPCB has not issued even a single show cause notice to CCL regarding non-compliances mentioned in the MoEF&CC's monitoring report dated 15.02.2019. It looks that JSPCB has also failed to undertake any site inspection to check compliance status and to consider any study on assessment of environment. They were just concerned to issue only CTO.
6. **On the issue of Environmental Compensation:** It is stated that the Piparwar mine was not in compliance of various EC conditions dated 11.06.2007. The aforesaid non-compliances have been continuing for the last about 14 years but the Environmental Compensation has been calculated from 01.07.2014 to 15.07.2017 for 1111 days which is an incorrect calculation as the calculation should be done from 11.01.2007 or soon thereafter.
7. **On the issue of Carrying out of Cumulative Impact Assessment and Carrying capacity study:** It is stated that the dissenting note of Regional Officer, JSPCB in the Joint Committee Report clearly shows poor understanding of the official and very casual approach towards environmental issues. The NGT Order in OA 284/2019 dated 19.09.2019 was related to only one issue i.e. road transportation of coal but it cannot be understood to implement the same in a landscape where the mines are in cluster situation and almost more than 90% of them using road transport. It is stated that the above dissenting comment by representative of JSPCB as a dissenting note is wrong and incorrect. Therefore, just following the above mentioned NGT order will not serve as an effective alternative to carrying out a cumulative impact assessment for the north Karanpura area. Secondly, the representative of JSPCB has failed to consider that as per Rule 5 of Environmental (Protection) Rules, 1986 the Central Government may take into consideration the following factors while prohibiting

or restricting the location of industries and carrying on processes and operations in different areas:-

“(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation to be prohibited or restricted.

(vi) Environmentally compatible landuse.

(ix) Proximity to human settlements

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted”

Thus, the comment of representative of JSPCB is against the Rules laid down by Environmental (Protection) Rules, 1986 is not justifiable.

It is therefore, prayed that:-

- (i) The prayers in the Original Application be accepted,
- (ii) Necessary orders may be passed in view of the observations of the Joint Committee in it's Report submitted on 14th September, 2020,
- (iii) Dissenting comment of the JSPCB on the issue of carrying capacity be rejected
- (iv) Heavy environmental compensation be imposed upon the Central Coalfields Ltd. for continuous violation of environmental clearance conditions from 11.06.2007 or soon thereafter.

) Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

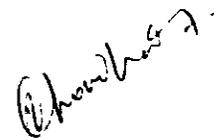


APPLICANT

THROUGH



RITWICK DUTTA



RAHUL CHOUDHARY

COUNSELS FOR THE APPLICANT

N-71, LOWER GROUND FLOOR, G.K.-I

NEW DELHI- 110048

VERIFICATION

Verified by Sanjay Chauhan, S/o Jagin Chauhan, aged about 42 years, R/o Mohan Nagar, Churi, Khalari, Dakra Colliery, Dakra, Jharkhand – 829210, do hereby verify that the contents of Paragraphs 1 to 7 are true to my personal knowledge and that I have not suppressed any material fact.



APPLICANT

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... RESPONDENTS

AFFIDAVIT

I Sanjay Chauhan, S/o Jagin Chauhan, aged about 42 years, R/o Mohan Nagar, Churi, Khalari, Dakra Colliery, Dakra, Jharkhand – 829210, presently at New Delhi, do hereby solemnly affirm and state as under:-

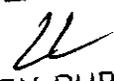
1. That I am the Applicant in the above named Original Application and I am duly competent to swear this affidavit and am conversant with the facts and circumstances of the present case.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.

VERIFICATION

NOTARY PUBLIC APPOINTED BY GOVT. OF INDIA G. S. KHARBANDA		
Notary Reg. No. 735	- 5 JUL 2022	Notary En. No. 21879
ATTESTED 9899422266		


DEPONENT

Verified on this 5th day of July, 2022, that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed there from.

ATTESTED

NOTARY PUBLIC


DEPONENT