

404

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
ORIGINAL APPLICATION NO. 27 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	404-413

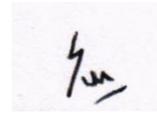
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DATE:- 7.07.2022

**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 Rohini Opencast Coal Mine located in the North Karanpura region of Jharkhand.
2. That vide it's Order dated 11.05.2020 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's Regional Office had submitted a monitoring report dated 19.09.2019 in which various instances of non-compliance and partial compliance with EC conditions were noted. MoEF&CC has issued a show cause notice dated 08.07.2020 to CCL regarding substantial non-

compliance of EC conditions at Rohini OCP which is annexed as Annexure 1 **(Page 105)**

- (ii) The Joint Committee observed that JSPCB has issued two show cause notice on 21.01.2019 and 01.02.2019 to CCL regarding high value of PM_{2.5} and PM₁₀ in the ambient air quality

as Annexure 2 **(Pages 124 and 125)**

- (iii) The road from mining area to coal unloading area is not in full compliance with EC conditions. There is spillage on road from trucks, due to which nearby habitat area may face dust pollution during dry season. The main haulage road in the mine does not have fixed water sprinkler arrangements. The existing system is inadequate and sparse not covering the entire area. Nor has a 3 tier green belt comprising a mix of native species been developed all along the major roads, as required by General Condition C(iv) and specific condition (ix) of the EC dated 05.10.2009. **(Page 107)**

- (iv) The Dakra siding is only in partial compliance with CPCB guidelines regarding coal sidings. **(Page 108)**

- (v) However, while large plantations have been created on the OB dump, development of plantation of 7.5m wide green belt is around the mining lease has not been completed , despite lapse of long period after commencement of the coal extraction and despite attention being drawn to it in the MoEF&CC Ranchi office's monitoring report of 18.09.2019. **(Page 111)**

- (vi) The concentration of lead was found beyond the limit. According to Monitoring Report of the MoEF&CC dated

18.09.2019 values of PM₁₀ and PM_{2.5} were near the prescribed limits. Two show cause notices were issued to the Project by JSPCB in early 2019 as Ambient Air Quality taken by a private laboratory showed extremely high pollution levels (PM₁₀>480 µg/m³ and PM_{2.5} > 190 µg/m³) at the Dakra siding. **(Page 113)**

(vii) The pollutant level AAQ (ambient air quality) data has not been shown /installed in the digital display board. **(Page 114)**

(viii) **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 a perusal of the same shows that on 02.05.22 Direction under Section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974 and 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981 has been issued. The JSPCB has mentioned that the construction of Garland drains, permanent retaining wall, approach road, repair of pot holes, installation of fixed type sprinklers and development of three-tier plantation have not been completed. Various conditions are partially complied so it is evident that the Project has not complied various conditions.

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 9 of the Affidavit dated 04.05.2022, the last one being a Consent to Operate dated 28.12.2018.

Secondly, the Affidavit of JSPCB directs that “..the name of the official(s) responsible for non-installation of Ambient Air Quality Monitoring Station within 7 days from issuance of this letter” 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 JSPCB have failed to take action against CCL even when non-compliance of EC conditions is known to MoEF&CC since 2018

4. It is stated that the Rohini mine was not in compliance of various EC conditions of its first EC dated 05.10.2009 and second EC dated 21.02.2017. The second EC was granted to the project for increase in Production Capacity and the very same conditions have been reproduced in the subsequent EC without inquiring into or ensuring their compliance. Furthermore, it can be seen that the aforementioned non-compliances have been continuing till date and has been completely overlooked by the authorities responsible to keep a check on such activities. This reflects the lackadaisical approach of the MoEF&CC and the JSPCB towards ensuring compliance from the CCL.
5. 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 the show cause notice to CCL on 08.07.2020 and no reminder notice or revocation of the EC has been done by MoEF&CC when numerous non compliances of EC conditions were within the knowledge of the MoEF&CC.
6. That it is stated that the JSPCB has issued two show cause notice dated 21.10.2020 and 02.012.2020 to CCL 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.

7. **On the issue of Environmental Compensation:** It is stated that the Rohini mine was not in compliance of various EC conditions of its first EC dated 05.10.2009. The aforesaid non-compliances have been continuing for the last about 12 years but the Environmental Compensation has been calculated from 21.02.2017 to 13.01.2022 for 1788 days which is an incorrect calculation as the calculation should be done from 05.10.2009 or soon thereafter.

8. **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 on Cumulative Impact Assessment in the Report of Joint Committee 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 Regional Officer, JSPCB on the issue of Cumulative and Carrying Capacity be rejected
- (iv) Heavy environmental compensation be imposed upon the Central Coalfields Ltd. for continuous violation of environmental clearance conditions after the date of the first EC dated 05.10.2009 or soon thereafter.
- (v) Till the time all EC conditions are complied with, restrain CCL from undertaking any operations at the Rohini coal mines until all the conditions of the Environmental Clearance are completely fulfilled and no further expansion shall be allowed to increase production capacity.

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

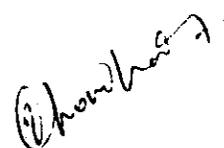


APPLICANT

THROUGH



RITWICK DUTTA



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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 8 are true to my personal knowledge and that I have not suppressed any material fact.



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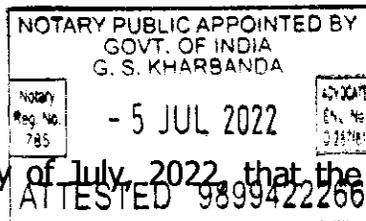
AFFIDAVIT

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.

DEPONENT

VERIFICATION



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