

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH AT KOLKATA  
ORIGINAL APPLICATION NO. 28 OF 2020 (EZ)**

**IN THE MATTER OF:**

SANJAY CHAUHAN

... APPLICANT

VERSUS

CENTRAL COALFIELDS LTD. & ORS.

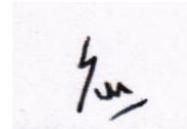
... RESPONDENTS

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**THROUGH**





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PLACE: NEW DELHI

DATE: 7.07.2022

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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 Amrapali 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) Regional Office of MoEF&CC (iii) CPCB (iv) JSPCB. This Joint Committee has submitted it's Report to the Hon'ble Tribunal highlighting that all the contentions of the Applicant with respect to Non-compliance of various EC conditions have been found to be correct. The Report also shows a callous and indifferent attitude of MoEF&CC and JSPCB in ensuring that CCL complies with the conditions of EC granted to it. MoEF&CC and JSPCB have merely done a lip service in issuance of show cause notices/letters/query when there were significant EC condition violations observed by them. It is stated that under Section 5 of the Environment

(Protection) Act, 1986 the MoEF&CC was within its power to initiate action against the violating unit/(s) in terms of closure or disconnection of electricity/water or by MoEF&CC's IA Division-Monitoring Cell but there is a zero enforcement on the part of the MoEF&CC and JSPCB in this case when the Karanpura area is reeling under unabated Environmental Pollution. The Hon'ble NGT in its Order dated 11.05.2020 that in case of violations being found out, action be initiated in accordance with law against the project and action taken report in this regard be filed with the Joint Committee's Report which has not been done by the Joint Committee. The Highlights of the report of the Joint committee are outlined as follows:-

- (i) That according to the Joint Committee's Report there are a number of issues related to violation in Amrapali OCP.

**(Page 68-69 of the Report)**

- (ii) The Joint Committee observed that MoEF&CC has issued a show cause notice dated 12.12.2018 to CCL regarding substantial non-compliance of EC conditions at Amrapali OCP which is annexed as Annexure 1

**(Page 70 of the Report)**

- (iii) The Joint Committee observed that JSPCB has issued an online show cause notice on 07.08.2020 to CCL regarding non-construction of toe wall, catch drains and settling tank, non-satisfactory tree plantation, and non installation of PM<sub>10</sub> analyser

as Annexure 2 **(Page 70 of the Report)**

- (iv) **Non-construction of Coal Handling Plant**-That one of the major issue taken up by the Applicant is that the construction of a CHP was part of the original EC conditions of 2006 and had not been complied with till

date. The Joint Committee observed that "from 2013-14 (when the operations began) till date, no siding or CHP has been constructed. It was also observed that " ....at the time of the field visit by this Committee, coal was being sent by road to the Shivpur siding located at 6 km from the mine" The Report also mentions to the effect that the field visit showed that road transport of coal was resulting in much spillage of coal on the road and consequent air and water pollution. Coal dust was observed to be flowing off the road into forest areas and agricultural fields, nullahs and ponds.

(v) The committee also noted that Shivpur siding was only a partial compliance with CPCB's 2015 guidelines of environmental management of railway sidings, while windscreen plantations, catch drain and sedimentation pond are in place. It was also mentioned that the water being used for sprinkling is coming from a borewell that does not have CGWA approval. The Committee was of the view that to minimize coal spillage on roads there should be a gap of 5-10 cm left (from top edge of trucks) while loading the transportation trucks. **(Pages 72-74 of the Report)**

(vi) **Issue of Green belt development-** That another major issue taken up by the Applicant was that the development of green belt in and around the mine site is completely inadequate, in violation of Specific Condition (vi). It is stated that according to the Joint Committee's Report "Overall, plantation and green belt development was not found to be satisfactory. While planting activity has recently been carried in many places, several

patches on the OB dumps were still found bereft of vegetation cover, and Project authorities have not done plantations as per their commitment in EIA/EMP.

**(Pages 75-76 of the Report)**

- (vii) **Preventing silt movement from OB and soil dumps into streams**-Another major issue taken up by the Applicant was that measures for the prevention of siltation from OB and soil into the streams have not been carried out. It is stated that as per the Joint Committee, there has been much delay in complying with these conditions relating to control of soil erosion and prevention of silt run off from the OB and topsoil dumps. While there has been progress on this front, there are still areas of non-compliance/partial compliance or use of incorrect methods or weak structures, which need to be rectified. **(Pages 76-79 of the Report)**
- (viii) **Preventing polluted runoff**-Another issue taken up by the Applicant was that measures for the prevention of surface runoff have not been carried out. It is stated that according to the Joint Committee there remain several places where coal dust runoff from coal dump, weighbridge areas, etc. is not properly contained in drains and sedimentation ponds. **(Pages 76-80 of the Report)**
- (ix) **On the issue of cumulative impact assessment and carrying capacity study for the north Karanpura area**-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:-
- (i) Neither conveyor system nor any silos are installed so far
  - (ii) 100 % of coal is still being transported through road dumpers
  - (iii) Conventional mining using drilling, blasting is used for overburden as well as the coal which reportedly cannot be

mined out using surface miners (it accounts for around 1 % of total cost as reported).

- (iv) Work order for Amrapali OCP, siding of CCL was awarded in the year 2017 but still it is not completed.
- (v) The work order for Coal Handling Plant (CHP) has been awarded to M/s Larsen and Toubro Limited on 31.12.2020.

It is further mentioned that construction of Railway siding, Silo and CHP has not been completed as yet which were given in EC conditions and it has been recommended to take action for the same.

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 Establish and 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 31.12.2022.

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 has failed to take action against CCL even when non-compliance of EC conditions is known to them since 2018**

4. It is stated that the Amrapali mine was not in compliance of various EC conditions dated 03.01.2006. The aforesaid non-compliances have been continuing for the last about 14 years. The

second EC dated 20.03.2020 was granted to the project for increase in Production Capacity without inquiring into or ensuring EC condition compliance. Furthermore, it can be seen that the aforementioned non-compliances have been till date have 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 the Joint Committee's Report and Affidavit of JSPCB dated 04.05.2022 shows that both MoEF&CC and JSPCB have remained mute spectators when there have been significant EC conditions non-compliances by CCL. The MoEF&CC had merely issued the show cause notice to CCL on 12.12.2018 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. Even after knowing about so many non-compliances of the EC conditions by the Project in 2018, the Project has been granted an expansion of normative capacity from 12 MTPA to 14.4 MTPA by the MoEF&CC on 20.03.2020 which speaks volumes about the conduct of the MoEF&CC who has permitted the Environmental Pollution unabated by CCL in this case.
6. That it is stated that a copy of the show cause notice dated 12.12.2018 issued by the MoEF&CC has been given to the Member Secretary, JSPCB but no action has been taken against CCL for such non-compliance by JSPCB. The online show cause issued by JSPCCB to CCL has been done just as a lip service after filing of the present matter and passing of the first Order dated 11.05.2020 by this Tribunal.

7. **On the issue of Environmental Compensation:** It is stated that the Amrapali mine was not in compliance of various EC conditions dated 03.01.2006. The aforesaid non-compliances have been continuing for the last about 14 years but the Environmental Compensation has been calculated from 14.09.2020 to 07.01.2022 for 480 days which is an incorrect calculation as the calculation should be done from 03.01.2006 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 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 14<sup>th</sup> 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 from 03.01.2006 or soon thereafter.
- (v) Till the time all EC conditions are complied with, restrain CCL from undertaking any operations at the Amrapali 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**



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



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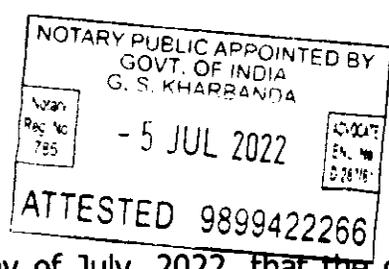
**AFFIDAVIT**

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 5<sup>th</sup> 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**