

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
ORIGINAL APPLICATION NO. 85 OF 2023

IN THE MATTER OF:

SAHEEN TARANNUM & ANR. ... APPLICANTS

VERSUS

STATE OF ODISHA & ORS. ... RESPONDENTS

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DATE:- 08.12.2023

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**REJOINER TO REPLY FILED BY RESPONDENT NO. 3, 4 AND
8 ON BEHALF OF THE APPLICANT**

MOST RESPECTFULLY SHOWETH:

1. That the Applicant has filed the above-mentioned Original Application No. 85 of 2023 before this Hon'ble Tribunal raising the issue of operation of the Nergundi Railway Siding of East-Coast Railway close to Nergundi Railway Station, Alarpur, Cuttack, Odisha in violation of consent condition and the guidelines issued by SPCB. It was further submitted that due to such loading, unloading, stacking and transportation of the minerals in the railway siding, it had led to extreme amount of dust pollution in Bilteruan village causing breathing related issues amongst the residents.
2. That the Applicants, through the above-titled Application, had raised the issue that the Railway Siding operated by Respondent No. 8 was violating certain Specific Conditions which were required to be followed in accordance with the Consent to Operate dated 3.04.2023 which is valid till 31.03.2024.
3. That the present Rejoinder is being filed by the Applicant in response to the Reply dated 10.10.2023, filed by Respondent No.s 3, 4 and 8 who are the East Coast Railway; Khurda Road Division, East Coast

Railway and Nergundi Railway Siding; through their authorized representatives. At the outset, the Applicant denies the contents of the Reply filed by Respondent No. 3, 4 and 8 unless expressly admitted or are of matter of record. The Applicant reiterates that all facts and submissions made in the Original Application, and its response to the Joint Committee Report, to be true and correct and the same may be read as part of the instant rejoinder and are not being repeated for the sake of brevity.

a. Response to the contention that the above-titled Application is premature:

4. That the contention made by the Respondents in Para 3 of the Reply that the present Application has been prematurely been filed before this Hon'ble Tribunal is incorrect and denied. It is submitted that the Applicant had filed the present Application raising the issues of violation of the Specific Conditions in the Consent to Operate (CTO) dated 3.04.2023 granted to the Respondent No. 8. That the Applicants are not challenging the Consent to Operate granted to the Respondent No. 8 but are rather raising the issues of violation of Specific Conditions mentioned in it.

b. Response to the contentions that the Respondent is complying with the Consent to Operate- Specific Conditions:

5. That the Respondents' contentions stating that they are complying with all the conditions of the Consent to Operate are wrong and denied. Following is the table showing the violation of the Specific Conditions which was raised by the Applicant in the Original Application, its reply by the above-mentioned Respondents in the Reply dated 10.10.2023, and the Applicant's objections to it:

S.No.	Specific Condition	Respondent's Contention	Applicant's Objections
1	<i>5. The materials shall be stored on concrete platform at siding. Under no circumstances stocking shall be carried outside the concrete platform.</i>	The platform area between route no. 7 & 8 which is used for handling of consignments at Nergundi Railway Siding is a concrete surface.	There is partial concrete platform available and stacking is done on both concreted platform as well as on plain ground, (As pointed out by the Applicant in the OA)
2	<i>7. To collect the surface run off generated during the monsoon and other period the unit shall provide an earthen pond and store/treat the water before discharge to outside.</i>	Two no. of Fog Cannon Dust suppression machines, mobile water tanker, 35 no. of water sprinklers are being used at Nergundi Railway Siding to contain air borne dust.	It is submitted that the said Respondents have not provided its response to the issue raised against Specific Condition No. 7. Further, no such earthen pond is present at the site (as raised by the Applicant in the OA.)
3	<i>8. The unit shall adopt adequate dust suppression measures to suppress fugitive emission during loading, unloading and transportation of materials.</i>	Two no. of Fog Cannon Dust suppression machines, mobile water tanker, 35 no. of water sprinklers are being used at Nergundi Railway Siding to contain air borne dust.	The presence of moveable rotary water sprinklers and mist canons provided for dust suppression during storage, loading/ unloading had only been installed at the site before the Committee site visit. Up until the date of the visit, no such measures were present at the site

			(as stated by the Applicant in the Response to the Joint Committee Report)
4	<i>12. During transportation of material by trucks/tippers/wagons through public roads the vehicle shall be properly covered with tarpaulin sheets.</i>	During stacking of materials, trucks are covered with tarpaulin sheets to suppress dust. Further, vehicles ply in a restricted speed during entry and exit to prevent air pollution.	Very few trucks are covered with tarpaulin sheet to suppress dust from become air-borne, (as raised by the Applicant in the OA)
5	<i>13. A green belt all along the boundary wall at siding area shall be properly developed and maintained.</i>	Railway has planted adequate numbers of trees alongside the boundary wall to prevent generation of dust and regular plantation drives is carried out from time to time at Nergundi Railway Siding	The Joint Committee Report itself has observed that a single tire of trees has been planted on the side of the boundary wall recently. (as mentioned in Point 4, Page 7 of the Joint Committee Report). It is submitted that the railway siding has been operational prior to 2008, and till date, the consent conditions have required that a green belt is maintained around the siding area. However, it is pertinent to note that till date the green belt around the

			siding area is the size of a sapling, and is unable to curb airborne dust emission.
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6. That it is clear from the above, that the Reply filed by Respondent No. 3, 4 and 8 is deficient. Therefore, the Hon'ble Tribunal, in the interest of justice and in view of the abovementioned facts and circumstances, may very kindly allow the prayer made in the Original Application.

Akshaya Kumar Jena.

APPLICANT

THROUGH

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VERIFICATION

Verified by Akshaya Kumar Jena, S/o, Sh. Sauri Jena, aged about 46 years, R/o Village Bilteruan, Po- Harianta, Dist. Cuttack, Odisha – 754025, do hereby verify that the contents of Paragraphs 1 to 06 are true to my personal knowledge and that I have not suppressed any material fact.

Akshaya Kumar Jena.

APPLICANT

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AFFIDAVIT

I, Akshaya Kumar Jena, S/o Shri Sauri Jena, aged about 46 years, R/o Village Bilteruan, Po- Harianta, Dist. Cuttack, Odisha- 754025, do hereby solemnly affirm and declare as under:

1. That I am the Applicant No. 2 in the above titled Application and conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.

Akshaya Kumar Jena.
DEPONENT

VERIFICATION

Verified on this Friday of Dec, 2023 that the contents of the present affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

Akshaya Kumar Jena.
DEPONENT

