

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO: 104 OF 2018**

IN THE MATTER OF:

SHIVPAL BHAGAT & ORS.

...APPLICANT(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

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PLACE: NEW DELHI

Note: Vakalatnama and Board Resolution have already been filed with the IA on 11.05.2022 bearing filing number 0701136007442022.

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**REPLY ON BEHALF OF JINDAL STEEL & POWER
LIMITED (“JSPL”)**

MOST RESPECTFULLY SHOWETH:-

**FACTUAL BACKGROUND NECESSITATING FILING OF THE PRESENT
REPLY**

1. The captioned matter bearing *O.A. 104 OF 2018* titled as *Shivpal Bhagat vs. Union of India & Ors.* was filed on 28.02.2018 praying for issuance of directions to the Respondent Authorities to, *inter-alia*, take remedial steps with respect to the allegations of pollution caused by the thermal power plants, the coal mines and coal washeries located in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh, including M/s Jindal Power Limited, M/s Jindal Steel & Power Limited, M/s TRN Energy Private Limited, M/s Mahavir Energy & Coal Benefaction Limited, M/s. Hindalco Industries Limited and M/s. Monet Energy Limited, SECL, i.e. Project Proponents [hereinafter “PPs”].
2. As understood from various orders of this Hon’ble Tribunal in the instant matter, several reports were submitted by the Expert Committee constituted by the Tribunal to examine the aspect of environmental damage, remedial steps, fly ash management etc. Further vide order dated 27.02.2020, the Hon’ble Tribunal directed the Expert Committee to act as an Oversight Committee with the CPCB being the nodal agency. On 24.08.2021, the Oversight Committee visited Gare Palma IV/01 Open Cast Coal Mine. The Committee members are aware that JSPL’s captive power plant

situated in Dongamahua has permission for backfilling its fly ash in Gare Palma IV/01 Open Cast Coal Mine. During the visit, the Committee, however, observed that the fly ash mixed with overburden (OB) was allegedly being disposed near drain /Nalah passing in mining lease area. The Committee observed that the distance between disposal site and drain/nallah seemed to be less than 500 metres. The Oversight Committee held several meetings and submitted its status reports, including the Report dated 16.12.2021 [hereinafter “**Report**”] which assessed the compensation payable by the PPs including JSPL and public officials. The Oversight Committee erroneously assessed the Environmental Compensation amounting to Rs. 11,70,000/- to be paid by JSPL for the alleged violations and also provided long-term and short-term measures to be taken by PPs as remedial steps. Subsequently, the order dated 15.02.2022 hereinafter “**Order**”] was passed by this Hon’ble Tribunal vide which it was directed that compensation assessed by the Oversight Committee under the Report be deposited as interim compensation. It was further directed that *the State PCB to put all PPs, PWD and Health Departments through the Chief Secretary, Chhattisgarh to notice of these proceedings with view to provide them opportunity to show cause why higher compensation be not determined, having regard to the said violations, having regard to their financial capacity.*

A copy of order dated 15.02.2022 passed by this Hon’ble Tribunal in the captioned matter is marked and annexed herewith as **Annexure – A**.

A copy of the Report submitted by the Oversight Committee Report on 16.12.2021 is marked and annexed herewith as **Annexure – B**.

3. Pursuant to the Order, CECB issued a Show-Cause Notice dated 03.03.2022 (“**Impugned SCN**”) asking JSPL to show-cause as to why enhanced compensation should not be levied in terms of Order which is the subject matter of the present Reply. Furthermore, CECB issued another Notice dated 03.03.2022 (“**Notice – Environmental Compensation**”) directing JSPL to pay the environmental compensation calculated by the Oversight Committee within 2 months.

A copy of the Impugned SCN is marked and annexed herewith as *Annexure – C*.

A copy of Notice – Environmental Compensation is marked and annexed herewith as *Annexure – D*.

4. At the outset, it is submitted that JSPL has been diligent in complying with directions of this Hon'ble Tribunal as also the Oversight Committee which is borne out by the fact that it has deposited an amount of Rs. 11,70,000/- [hereinafter "**Impugned Levy**"] on 12.04.2022 in terms of this Hon'ble Court's directions vide Order dated 15.02.2022. However, it is pertinent to mention that JSPL has challenged the Impugned Levy vide an I.A. bearing Filing Number 0701136007442022 [hereinafter "**IA**"] in the captioned matter based on, *inter-alia*, the following grounds:

- i. JSPL has promptly removed the fly ash mixed with OB on 24.10.2021 itself, i.e. more than a month before the deadline and complied with all directions of this Hon'ble Tribunal as also the Oversight Committee as is evident from the follow up visit conducted by the Oversight Committee on 24.11.2021 wherein it was observed that, all the flyash-overburden mix had been removed from the site.
- ii. CIMFR analysed the surface water quality of the Nalah passing through the mine and vide its Report submitted in March, 2021, it was concluded that all the parameters are within the permissible limits and that no environmental damage can be alleged to have taken place.
- iii. The contents of the Report do not state that any environmental damage is attributable to JSPL and reflects inaccuracy and vagueness inasmuch as it merely states "*The distance between the disposal site and Nalah seems to be less than 500m*". In fact, the Report dated 10.09.2021 by IIT, Kharagpur and the latest Report dated 8.02.2022 by Ultimate Envirolytical Solutions clearly shows that the water quality of Bendra Nala has not been compromised

due to the backfilling of ash with OB in the mine voids of Gare Pelma IV/1 Coal Mine.

- iv. The Report does not even mention a single instance which states that JSPL's activity has caused environmental damage but merely proceeds to levy the environmental compensation assessed at Rs. 11,70,000/- without any corroborative evidence.
- v. As is evident from the Report, the Oversight Committee had instructed CECB which in turn engaged Ultimate Enviroltical Solutions for collection of water samples for analysis in case of entities such as M/s TRN Energy, M/s Hindalco Ltd. However no such instructions were given by the Oversight Committee qua JSPL and the Committee without any scientific assessment/analysis has imposed the Impugned Levy on JSPL. The same is ex facie arbitrary and speaks volumes about the capricious conduct of the Oversight Committee. Needless to state that the same institution/entity carried out the water quality analysis of Bendra Nala and found that the water quality of the Nala has not been adversely impacted due to the backfilling of fly ash with OB in the mine voids of Gare Pelma IV/1 Coal Mine.
- vi. The imposition of the environmental compensation cannot be sustained being bad in law. The said compensation has been levied against JSPL by the Hon'ble NGT without even impleading it in the said proceedings. Such levy is not in accordance with the mandate of law as the same has been imposed without allowing JSPL with an opportunity to explain.

Furthermore, the contents of the IA qua the Impugned Levy may be read as part and parcel of the present Reply and have not been reproduced herein in detail for the sake of brevity. Therefore, it is humbly submitted that there is no occasion and reason for

enhancement of compensation and also the IA impugning the Environmental Compensation of Rs. 11,70,000/- itself is pending adjudication before this Hon'ble Tribunal.

A copy of the I.A. filed before this Hon'ble Tribunal by JSPL in the captioned matter is marked and annexed herewith as *Annexure – E*.

A copy of the proof of payment of the Impugned Levy by JSPL along with Cover Letter is marked and annexed, herewith, as *Annexure – F (Colly)*.

5. Without prejudice to the submissions made in Paragraph No. 4 hereinabove, it is urged that the Impugned SCN, seeking to levy enhanced compensation, is illegal and liable to be quashed for the reasons detailed herein below.

A. CONTENTS OF THE OVERSIGHT COMMITTEE REPORT DATED 16.12.2021 CANNOT BE CONSTRUED TO MEAN THAT A HIGHER COMPENSATION SHOULD BE DETERMINED

6. In the Order, this Hon'ble Tribunal had placed strong reliance on certain paragraphs of the Report to conclude that payment of compensation, as quantified in the Report against all the PPs, is inadequate. However, it is respectfully submitted that such reliance is misplaced inasmuch as it ignores the context in which the observations pertaining to compensation were given in the Report. The same is detailed hereinbelow:

- i. In Paragraph 8, at Page 45 of the Order, the Hon'ble Tribunal had relied on the highlighted paragraph reproduced hereinbelow:

“1.1 Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling.

*As per compliance report submitted on 07.04.2021 and accepted by Hon'ble NGT in its order dated 24.06.2021 Two SECL mines (IV/2,3) and one JPL mine (IV/1) only are accepting fly ash for disposal in OB dump. Other coal mines in Tamnar and Gharghoda area are not accepting fly ash for disposal in OB dump. **Although Environmental compensation has been assessed but for future they are not exonerated and shall be liable to assessment of Environment Compensation and other legal actions.**”*

Notably, this observation was made in the context of the coal mines/ coal mine allottees that are not accepting fly

ash for disposal i.e. except for the abovementioned two mines. It is in this context that the observation pertaining to “*future action*” against the non-compliant entities was made. It is important to highlight that JSPL has not been operating any coal mine since April, 2015 and thus the above observations are inapplicable qua JSPL. The highlighted portion of the paragraph reproduced hereinabove is not intended to be applied as a general principle for determining higher compensation than that quantified vide the Report.

- ii. In the present matter, each PP’s case has to be adjudged as per the specific averments/facts and cannot be painted with the same brush. Thus, the findings qua enhanced compensation, if any, are inapplicable to JSPL.

B. THE PUTATIVE REASONS FOR CONCLUDING INADEQUACY OF COMPENSATION ARE INCORRECT

7. The reasons for the alleged inadequacy of the compensation are detailed in Paragraph No. 12 of the Order which states that the compensation assessed vide the Report is inadequate. It is humbly submitted that the said reasoning for concluding the inadequacy of compensation in the Report is incorrect for the reasons detailed hereinbelow:

- i. *The first reason for the alleged inadequacy of compensation is that it does not factor in the cost of remediation:* In this regard, it is submitted that the Report, in fact, does factor in the cost of remediation and has also levied higher compensation on entities/public officials who have failed to take remedial steps. For instance, in the context of an entity being M/s TRN Energy Private Limited, the Report notes as follows:

*“On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda. The top of Dump was at least t0 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoined field. **To prevent the same no remedial measures has been taken by the PP.**”*

[Page 82 of the Report]

Furthermore, the Committee also levied a penalty/fine on officials of the PWD and Principal Health Secretary for failure to take remedial action:

“In fact this is a case of deliberate disobedience of remedial measures by the PWD, therefore for environment breach Dept.of PWD is also responsible and therefore cannot escape its liability to pay Penalty / Fine”

[Page 132 of the Report]

“His non-involvement in taking remedial measures is one of the reason to increase public health hazard which arose due to air and water pollution. Neither he took part in environmental Penalty/Fine hearing although noticed nor could show any ground to exempt him from levying the Penalty / Fine”

[Page 138 of the Report]

Therefore, it cannot be said that the cost of remediation has not been factored in calculating the compensation payable inasmuch as the compensation levied by the Committee factors in the conduct of non-compliant entities/persons who have failed to take remedial steps and accordingly, levied higher compensation on such entities/persons as is evident from the chart reproduced hereinbelow:

Sl. No	Name of the industry / department	EC/Penalty/Fine amount in Rs
01	Principal Secretary, Public Works Department Chhattisgarh Government	1,00,00,000/-
02	Principal Secretary, State Health Department Chhattisgarh Government	1,00,00,000/-
03	M/s TRN Energy Private Limited, Nawapara Raigarh	1,82,40,600/-
04	M/s Mahavir Energy and coal beneficiation Limited	1,42,90,000/-
05	M/s Hindalco Industries Limited Coal Mine	2,09,40,000/-
06	M/s Ambuja Cement Limited Coal Mine (GP IV/8)	75,90,000/-
07	M/s Jindal Steel & Power Limited, Dongramaul, Tamnar	11,70,000/-
08	M/s Chhattisgarh State Power Generation Company Limited	75,90,000/-

09.	M/s Jindal Power Ltd, Tamnar	48,30,000/-
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The proposition that compensation, as levied vide the Report, factors in the cost of remediation is further borne out by the fact that M/s TRN Energy Private Limited was also required to pay enhanced compensation for damage to property of individuals, i.e. additional remedial compensation on the basis of applications submitted by the villagers:

10. Calculation of property damage on application submitted by villagers in favour of the applicant against TPPs

Applications were against TRN Energy Pvt.Ltd.and against M.s Mahaveer Energy& Coal Benification Ltd. Although copyof the application are been served on these TPPs but they did not file any reply.

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. Ghurauram Rathia Nawapara	381/01	0.076	7030
02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895	408017.5allowed only Rs.1,11,000/- as claimed 175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

It is respectfully submitted that it would be manifestly unjust to determine higher compensation for companies, such as JSPL, which has complied with all orders of this Hon'ble Tribunal, participated in the meetings as directed by the Committee and also implemented remedial steps. In fact, painting all project proponents, i.e., compliant as well as non-compliant entities with the same brush and determining higher compensation is violative of principles of natural justice, especially in view of the fact that JSPL was never given an opportunity to present its case before this Hon'ble Tribunal formed a view regarding the levy of compensation as well as *prima-facie* view with respect to enhanced compensation vide the Order. The email dated 21.12.2021 sent by Dr. R.P. Mishra

of CPCB, Bhopal on behalf of Oversight Committee containing the Report merely does lip service to the cardinal principle of *audi alteram partem* inasmuch as the contents therein had already been finalised and submitted to this Tribunal. Furthermore, the issue pertaining to remedial action already stands covered by the orders of the Hon'ble Tribunal as also the "Long-Term Measures" recommended in various reports submitted by the Committee. Therefore, it is respectfully submitted that any further determination of compensation would be unjust and unlawful.

- ii. *The second reason for the alleged inadequacy of compensation is that it ignores the financial capacity of the Project Proponent in violation as required inter-alia in M. C. Mehta & Anr. v. Union of India, Sterlite Industries (India) Ltd. v. Union of India and Goel Ganga Developers India Pvt. Ltd. v UOI:* At the outset, it is submitted that the Hon'ble Tribunal has wrongly relied on the aforementioned judgments as the same are extraneous to the facts specifically qua the Applicant and thus, inapplicable. It should be appreciated that these judgments were rendered under special circumstances involving issues of extreme magnitude and impact. Unless necessitated by facts and circumstances of the case, such judgments and principles thereof must not be casually applied.
- iii. It is further submitted that the case of *M.C. Mehta (Supra)* was rendered in the context of Article 32 of the Constitution and, as such, is inapplicable to the facts in issue which are to be dealt in relation to provisions of the National Green Tribunal Act, 2010 ("NGT Act") and even otherwise, the said judgement, despite the wide purport of Article 32 stipulated the threshold which has to be met before compensation may be awarded, let alone enhanced compensation. In this regard, reliance is placed on Paragraph No. 7 of *M.C. Mehta (Supra)*:

"7. ... 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 theft 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*, (AIR 1983 SC 1086). 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 incontrovertible, 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.”

It is further submitted that the financial capacity of a Project-Proponent is only one of the factors which have to be considered before compensation is levied inasmuch as it is trite to say that the compensation so granted should also commensurate with the actual harm done by the Project-Proponent failing which the “polluter to pay” principle will be stretched to an unreasonable point. In this regard, reliance is placed on the Hon’ble Supreme Court’s judgement in *Deepak Nitrite Ltd. Vs State of Gujarat & Ors. 2004 (6) SCC 402* which held in ringing terms:

“6. The fact that the industrial units in question have not conformed with the standards prescribed by GPCB cannot be seriously disputed in these cases. But the question is whether that circumstance by itself can lead to the conclusion that such lapse has caused damage to environment. No finding is given on that aspect which is necessary to be ascertained because compensation to be awarded must have some broad co-relation not only with the magnitude and capacity of the enterprise but also with the harm caused by it. May be, in a given case the percentage of the turnover itself may be a proper

measure because the method to be adopted in awarding damages on the basis of 'polluter to pay' principle has got to be practical, simple and easy in application.”

Therefore, as detailed in Paragraph No. 5 (i) hereinabove, the Committee has assessed the amount payable taking into account the specific violations/harm done by each of the entities/persons and accordingly levied the compensation on each of such entities/persons. While JSPL disputes the already assessed/interim compensation, determination of any further compensation shall be unfair, unjust and unreasonable.

A copy of the judgement passed by the Hon'ble Supreme Court in *Deepak Nitrite Ltd. Vs State of Gujarat & Ors. 2004 (6) SCC 402* is marked and annexed, herewith, as *Annexure – G*.

- iv. Furthermore, the judgement of the Hon'ble Supreme Court in *Sterlite Industries (India) Ltd. v. Union of India 2013 (4) SCC 575* is entirely distinguishable on facts inasmuch as the compensation in that case was also levied based on the actual damage done by the Appellant between 1997 and 2012. The same is evident from the paragraph reproduced hereinbelow:

“45. We may now consider the contention on behalf of the interveners that the appellants were liable to pay compensation for the damage caused by the plant to the environment. The NEERI reports of 1998, 1999, 2003 and 2005 show that the plant of the appellant did pollute the environment through emissions which did not conform to the standards laid down by the TNPCB under the Air Act and through discharge of effluent which did not conform to the standards laid down by the TNPCB under the Water Act.”

In fact, in this judgement no direction was given to levy enhanced compensation in case of any inadequacy but instead utilisation of the principal amount was ordered. Herein the appellants were directed to keep the compensation in a fixed deposit and it was held that if the interest accruing from the fixed deposit paid by the Appellant was “inadequate” for undertaking remedial steps such as “improvement of the environment, including water and soil, of the vicinity of the plant of the appellants after consultation with TNPCB and approval of the Secretary, Environment, Government of Tamil

Nadu” etc., the District Collector was directed to use the principal amount of compensation to undertake such measures. Thus, no direction was given to the District Collector to levy enhanced compensation in case of any inadequacy. The same is evident from the paragraph reproduced hereinbelow:

“50. In the result, the appeals are allowed and the impugned common judgment of the High Court is set aside. The appellants, however, are directed to deposit within three months from today a compensation of Rs.100 crores with the Collector of Thoothukudi District, which will be kept in a fixed deposit in a Nationalized Bank for a minimum of five years, renewable as and when it expires, and the interest therefrom will be spent on suitable measures for improvement of the environment, including water and soil, of the vicinity of the plant of the appellants after consultation with TNPCB and approval of the Secretary, Environment, Government of Tamil Nadu. In case the Collector of Thoothukudi District, after consultation with TNPCB, finds the interest amount inadequate, he may also utilize the principal amount or part thereof for the aforesaid purpose after approval from the Secretary, Environment, Government of Tamil Nadu.

Furthermore, the case of *Goel Ganga Developers India Pvt. Ltd. v Union of India 2018 (18) SCC 257*, in fact, bolsters the arguments raised by JSPL vide the present Reply. In this case, the Hon’ble Supreme Court has specifically held that (i) Courts cannot introduce a new concept of assessing and levying damages unless expert evidence is submitted in this regard; (ii) Damages/Compensation levied on a Project Proponent ought to commensurate with the actual harm done to the environment and (iii) The alleged environmental harm has to be correlated with scientific evidence. In this regard, reliance is placed on the following paragraphs of the said judgement:

“61. Courts cannot introduce a new concept of assessing and levying damages unless expert evidence in this behalf is led or there are some well-established principles. We find that no such principles have been accepted or established in the present case. When there are no pleadings in this regard we fail to understand how the concept of Carbon Footprint can be introduced after evidence has been closed, at the stage of arguments. We cannot assess the impact in actual terms and, therefore, we can only impose damages or costs on principles which have been well settled by law.”

“62. We may also note that the method to which the original applicant referred to is not part of any law, rule or executive instructions...”

“63. We may make it clear that we are not laying down the law that damages cannot be assessed on the basis of Carbon Footprint. In a case where expert evidence in this behalf is led or on the basis of empirical data it is established that by applying the principles of Carbon Footprint damages can be assessed, the Court may, in the facts and circumstances of the case, rely upon such data but, in the present case, there is no such reliable material.”

“64. ..However, in the present case we feel that damages should be higher **keeping in view the totally intransigent and unapologetic behaviour of the project proponent. He has maneuvered and manipulated officials and authorities. Instead of 12 buildings, he has constructed 18; from 552 flats the number of flats has gone upto 807 and now two more buildings having 454 flats are proposed. The project proponent contends that he has made smaller flats and, therefore, the number of flats has increased. He could not have done this without getting fresh EC. With the increase in the number of flats the number of persons, residing therein is bound to increase. This will impact the amount of water requirement, the amount of parking space, the amount of open area etc..”**

In any case and without prejudice to the above, it is pertinent to highlight that JSPL has been facing serious hardships pursuant to the coal block de-allocation in 2014. It is submitted that JSPL ha incurred losses for several years. Therefore, any enhancement of compensation determined against the Applicant will further add to its miseries and it is humbly requested that such facts are taken into account by the Hon’ble NGT before imposing any compensation/further enhancement on JSPL.

- v. *The third reason for the alleged inadequacy of compensation is that it is merely based on the number of days of violation and does not have a deterrent effect:* In this context, reliance is placed on the formula adopted by the Oversight Committee for calculating the environmental compensation:

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

It is pertinent to mention that the Average Pollution Index [hereinafter “PI”] for the mining industry and Thermal Power Plants is taken as 80 inasmuch as the Central Pollution Control Board under Section 18(1)(b) of the Water (Prevention & Control of Pollution), Act, 1974 to all SPCBs/PCCs to maintain uniformity in categorization of industries as red, green and orange. Notably, the said categorisation of industries is based on, *inter-alia*, size of industry and consumption of resources. In fact, it is in view of the said categorization that the formula also incorporates the factor of scale of operation [hereinafter “S”] of an industry and accordingly, the same is taken as 1.5 inasmuch as coal mines and thermal power plants are considered to be large units. Therefore, the Scale of Operation and Average Pollution Index factor in the environmental damage done by a certain industry in the past as also the potential for future harm, if any in view of its size and average consumption of resources. The same is evident from the notification dated 07.03.2016 issued by the CPCB:

“The concept of categorization of industries continued to evolve and as different State Pollution Control Boards interpreted it differently, a need arose to bring about necessary uniformity in its application across the country. In order to harmonize the ‘Criteria of categorization’, Directions were issued by CPCB under Section 18(1)(b) of the Water (Prevention & Control of Pollution), Act, 1974 to all SPCBs/PCCs to maintain uniformity in categorization of industries as red, green and orange as per list finalized by CPCB, which identified 85 types of industrial sectors as ‘Red’, 73 industrial sectors as ‘Orange’ and 86 sectors as ‘Green’.”

The process of categorization thus far was primarily based on the size of the industries and consumption of resources. The pollution due to discharge of emissions & effluents and its likely impact on health was not

considered as primary criteria. There was demand from the SPCBs / PCCs and industrial associations for categorization of the industrial sectors in a more transparent manner. Accordingly, the issue was discussed thoroughly during the national level conference of the Environment Ministers of the States, held in New Delhi during April 06-07, 2015 and a 'Working Group' comprising of the members from CPCB, APPCB, TNPCB, WBPCB, PPCB, MPPCB and Maharashtra PCB is constituted to revisit the criteria of categorization of industries and recommend measures for making the system transparent and rational.

Furthermore, the process of categorisation of industries also ensures that the PPs adopt the latest technologies so that their environmental footprint is reduced:

"The purpose of categorization is to ensure that the industry is established in a manner which is consistent with the environmental objectives. The new criteria will prompt industrial sectors willing to adopt cleaner technologies, ultimately resulting in generation of fewer pollutants."

In the above conspectus, it is humbly submitted that it cannot be said that the compensation levied vide the Report is merely based on number of days on violation without any reference to other factors or that it does not have a deterrent effect.

A copy of the notification dated 07.03.2016 issued by the CPCB is marked and annexed herewith as *Annexure – H*.

- vi. Having established that the reasons given for levying enhanced compensation are incorrect, the sequitur is that the any reference to the order dated 18.01.2022 passed by this Hon'ble Tribunal in *OA 114/2018* titled as *Ashwani Kumar Dubey v. Union of India & Ors.* is equally misplaced inasmuch as this Hon'ble Tribunal cannot transplant its specific findings qua the PPs in that case to the facts-in-issue.
8. It is submitted that this Hon'ble Tribunal vide order dated 22.07.2020 had itself directed the Oversight Committee to issue directions for "remedial measures". Relevant part of the order dated 22.07.2020 passed by this Hon'ble Court is reproduced hereinbelow:

"The Oversight Committee may issue appropriate directions to the project proponents for other remedial measures."

Pursuant to directions of the said order, the Oversight Committee submitted the Report and assessed compensation along with short-term and long-term measures which are *ex-facie* remedial in nature. Therefore, it cannot be said that the compensation along with directions issued in the Report are not remedial in nature.

9. It is further submitted that this Hon'ble Tribunal had directed the Committee to submit reports to its satisfaction on several occasions and the order dated 15.02.2022 also notes that this Hon'ble Tribunal agrees with the contents of the Report. Since, it has been contended hereinabove and reasonably established that the issue qua determination of higher compensation is inapplicable to JSPL and that JSPL has diligently abided by directions of this Hon'ble Tribunal by, *inter-alia*, promptly removing the fly ash mixed with OB more than a month before the deadline, engaging CIMFR to analyse the surface water quality of the Nalah which also concluded that all parameters are within the permissible limits (similar conclusions also given by IIT, Kharagpur as well as Ultimate Envirolytical Solutions), it would be manifestly unjust to determine enhanced compensation for JSPL.

PRAYERS

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

- A. Declare qua JSPL, that in the present facts and circumstances, no case for determination of enhanced compensation is made out;
- B. Clarify the Order dated 15.02.2022 in terms of Prayer (A) hereinabove and quash the Impugned SCN dated 03.03.2022 issued by the CECB;
- C. Pass such other, further orders, directions and decree as this Hon'ble Court may deem fit in the facts and circumstances of this case and in the interest of justice.

THR.



N. Joshi

NAMAN JOSHI | GUNEET SIDHU

ADVOCATES FOR JINDAL STEEL & POWER LIMITED

CHAMBERS OF JOSHI & SINGH

G-46, L.G.F.,

JANGPURA EXTENSION,

NEW DELHI – 110 014

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naman.joshi@CJSlegal.in

DATE: 12.05.2021

PLACE: NEW DELHI



VERIFICATION:

I, Rajan Anand S/o Late Shri B.K. Anand, aged about 50 years, Authorized Representative of Jindal Steel & Power Limited, having its office at Jindal Centre, 12, Bhikaiji Cama Place New Delhi – 110 066 do hereby solemnly affirm and verify that the contents of Paras 1-9 are true and correct as per the official records of JSPL or based on legal advice and nothing material has been concealed therefrom.

Verified at New Delhi on this 12 day of May, 2022



BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO: 104 OF 2018

18

IN THE MATTER OF:

SHIVPAL BHAGAT & ORS.

...APPLICANT(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

I, Rajan Anand S/o, Late Shri B.K. Anand, aged about 50 years having its office at Jindal Centre, 12, Bhikaiji Cama Place New Delhi – 110 066 being authorised representative of the Jindal Steel & Power Limited, do hereby solemnly state and affirm as hereunder:

1. I am the authorized representative of Jindal Steel & Power Limited and am well conversant with the facts and circumstances of the present case, and hence am competent to swear the present affidavit.

2. I have read and understood the contents of the accompanying Reply and state that the facts stated therein are true to my knowledge and belief or are based on the official records of JSPL and nothing material has been concealed therefrom.



DEPONENT

Identify the Deponent who has signed/put T.I. in my presence

VERIFICATION:

Verified at New Delhi on this ___ day of _____, 2022 that the contents of the above affidavit are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.



DEPONENT



4 MAY 2022

Item No. 01

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 104/2018
(with I.A. Nos. 37/2022 & 40/2022)

Shivpal Bhagat & Ors.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 15.02.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant: Mr. Devashish Chauhan, Advocate for Applicant No. 1
Mr. Saurabh Sharma, Advocate for Applicants No. 2 to 6
Mr. Amir Singh Pasrich, Advocate in I.A 40/2022

For Respondent(s): Mr. Raj Kumar, Advocate for CPCB
Mr. Raunak Jain, Advocate for MECBL

ORDER

1. The issue for consideration is the remedial action against pollution caused by the Thermal Power Plants and Coal washeries in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh, including M/s Ambuja Cement Limited Coal Mine (GP IV/8) and M/s Mahavir Energy and Coal Benefication Limited, M/s TRN Energy Private Limited, Nawapara Raigarh, M/s Hindalco Industries Limited Coal Mine, , M/s Jindal Steel & Power Limited, Dongramau, Tamnar, M/s Chhattisgarh State Power Generation Company Limited and M/s Jindal Power Ltd., Tamnar. Operation of said units is resulting in contamination of air, water and land and having adverse impact on the environment and the habitants. Water and soil have toxic metals, having potential for health hazard, requiring monitoring of emissions, making the polluters



accountable and regulating the polluting activities. Further, in view of dust pollution due to absence/insufficient roads, PWD has to take remedial action. In view of damage caused to the health, Health Department of the State is to hold health camps and provide health facilities to the victims. The Chief Secretary, Chattisgarh is to oversee. The matter has been dealt with earlier in the last more than three years and factual reports have been submitted by statutory regulators based on which the Tribunal has directed remedial action. Adequacy of such action and further directions are to be considered. We may refer to the earlier proceedings and after considering current status pass further order.

Procedural History

2. Under directions of this Tribunal in the light of facts pleaded, an Expert Committee was required to verify facts and furnish a report. Accordingly, the Committee furnished its report dated 14.10.2019, after visiting the sites and considering earlier reports on the subject. The Committee considered the mitigation measures required to be adopted by the Thermal Power Plants and the Coal washeries. The Committee dealt with the issues of ground water depletion, soil pollution, forest loss and livelihood loss were required to be addressed for which short term and long terms measures were suggested. The Tribunal directed remedial action for dealing with the deficiencies accordingly. Further direction was to review the existing arrangements and furnishing a further report.

3. The matter was further considered on 20.11.2020 in the light of CPCB report dated 17.11.2020 giving the compliance status with reference to directions of this Tribunal in a tabular form and also making further recommendations inter alia on the subjects of providing health facilities for the victims, construction of roads and availability of abandoned coal



mines. The Tribunal also issued directions to the Health and PWD Departments of Chhattisgarh Government and South Eastern Coal Fields. The Tribunal also directed consideration of suggestions of the applicants for taking due precautions in the course of dumping in low lying areas.

Last order dated 24.6.2021 noticing the compliance status and directions for remedial action

4. The matter was last considered on 24.06.2021 in the light of further report by CPCB dated 16.04.2021 after conducting the field visit. The report gave status of compliance as on 15.03.2021. The Tribunal accepted the recommendations of the Committee which were based on objective consideration of the material on record. Directions were also issued to the State Board to prepare list of the areas where unscientific disposal of fly ash had taken place and for remedial action in the matter of providing health facilities, construction of necessary road to prevent further pollution, scientific disposal of the fly ash and assessment of compensation for the past violations. Having regard to the continued violation of serious nature, the Tribunal directed that Oversight Committee will now be headed by a former Judge of High Court for a period of six months from the date he joins the first meeting of the Committee. The operative part of the order dated 24.06.2021 is as follows:-

“1to3...xxx.....xxx.....xxx

4. *In pursuance of above, a further report has been filed by CPCB on 16.04.2021. The Committee held meetings during 15th-17th March, 2021 and also conducted field visit. The status of compliance as on 15.03.2021 has been given in a tabular form. Field observations and recommendations have also been mentioned. Relevant extracts from the report are reproduced below:-*

“In compliance of Hon’ble NGT order dated 20.11.2020 (Annexure-I), the 3rd virtual meeting of over sight committee was conducted on 27.11.2020. Copy of the minutes of this meeting is placed at Annexure-II.

As decided in the meeting, 3 rd field visit of Gharghoda and Tamnar area in Raigarh was conducted during 15-17th March 2021 to



address the suggestions given by the applicant by way of written submission filed on 18.11.2020 and to assess progress on the ground in terms of compliance with short term recommendations. The Oversight committee has conducted meeting with applicant on 15.03.2021 in the meeting hall of Collector Raigarh. Sh. Bhim Singh, IAS, Collector Raigarh was also with other members of the Oversight Committee. As decided in the meeting on 27.1.2020 Sh. Shivpal Bhagat, (Applicant) was informed about schedule of the meeting through e-mail on 12.03.2021 and through phone on 15.03.2021. Copy of the mail is placed at Annexure-III. Three applicants out of six have attended the meeting viz Sh. Sriram Gupta S/O Mansha Ram Gupta (Applicant 4), Ms. Rinchin D/O Bina (Applicant 5) and Janki Sidar W/o Bharat Sidar (Applicant 6).

All three applicants were then invited to join the Oversight Committee in its field visit on 15th and 16th March 2021. **Contaminated sites and fly ash disposal sites shown by the applicant were listed and course of action decided / recommended by the committee has also been recorded in field visit report.** Copy of the field visit report is placed at Annexure-IV.

The compliance status of short term and long term measures are presented as under-

S. No	ORDERS OF THE HON'BLE NGT FROM RECOMMENDATIONS IN THE REPORT, NOVEMBER 2019	COMPLIANCE REVIEW STATUS AS ON 15.03.2021
01	Short term measures	
	Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling. (Action by respective Coal mine companies).	Two SECL mines (IV/2,3) and one JPL mine (IV/1) are accepting fly ash. Letters were issued to SECL Chaal OC, Monnet Ispat, HINDALCO Limited and M/s Ambuja Cement Ltd. M/s HINDALCO mines informed about no OB dump because of continuous back filling of mined area with OB as per Approved mining plan. M/s Monnet Ispat Mines has been taken over by SECL. No response received from M/s Ambuja Cement Limited. MoEF &CC vide its notification dated 28th August 2019 has modified the conditions stipulated in the EC of TPP and coal mines in line with the fly ash notification and subsequent amendment. It has been mentioned in point no 7 that ministry has stipulated the conditions which prohibited the



		<p>use of fly ash in abandoned mines/low lying area/ soil conditioner in agriculture following the guide lines prepared by CPCB.</p> <p>Accordingly CECB shall amend the consent conditions of all TPP and Coal Mine.</p> <p>More over CEA vide its letter dated 14.02.2020 has informed about declaration of abandoned mines on recommendation of task force. The list includes 24 abandoned OC mines of Chhattisgarh to be used for filling of fly ash generated from TPP. The committee has suggested to Chairman, Chhattisgarh Environment Conservation Board for constitution of State Level Committee to decide the mode and quantity of fly ash to be disposed in working/ abandoned mines/quarries in the State. The same committee may also look after the fly ash disposal issues in Raigarh also on priority. Copy of the letter issued to Chairman, CECB, Raipur, is placed at Annexure-V. Action from CECB is awaited.</p>
b)	<p>Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.</p>	<p>District Collector of Raigarh has issued letter to concerned department for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly Ash. During visit of the committee, disposal of fly ash in low lying area was observed but seems to be disposed before issue of the order by the collector.</p> <p>As per preconditions of SOP Power plant/ land owner/agency shall obtain statutory permission from regulatory authorities such as SPCB as per requirement.</p>

		CECB is to submit list of the locations of low lying areas being used or earlier used for unscientific disposal of fly ash for which permission has been granted by local administration after getting NOC from CECB.
c)	Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks. (Action by SECL).	It was informed by Regional officer CECB, Raigarh that Jindal Power limited (JPL) has received 44,25,66 MT coal in 2019-20 and 40,24,274 MT coal in 2020-21 through conveyor belt.
d)	Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pre – treatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically, the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms.	PHED Raigarh has informed that water testing laboratories are functional at Gharghoda and Raigarh for testing of drinking water quality of the area. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tap water in village and ensure quality of water in coordination with PHED Raigarh. M/s Hindalco has submitted detail of mine quantity generation and its mode of treatment to committee. PHED is to submit the quantity of water required for kondkhel village. The committee has also suggested to obtain details from Central Ground Water Authority about water recharge points provided by the coal mines at the time of obtaining NOC.
e)	Installation of adequate number of CCTV and CAAQM stations in coal	As per field report by CECB, RO, Raigarh it seems that CCTV has been

	<p>mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information. (Action by respective coal mine companies).</p>	<p>installed by M/s HINDALCO Industries, SECL Gare Palma IV/2 & 3, SECL Chhal. SECL Gare Palma IV/1. At the time of visit M/s Monnet Ispat Mines were not found operational.</p> <p>In case of installation of CAAQMS committee has instructed Member Secretary, Chhattisgarh Environment Conservation Board to issue directions to all coal mines for installation of CAAQMS and its connectivity with CPCB/CECB server. Copy of the letter is placed at Annexure-VI. Status of the same is awaited from MS, CECB, Raipur</p>
f)	<p>Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles. (Action by Public Works Department and respective mining companies). Indian Railways to be directed to submit a time-bound action plan for commissioning of the railway line in Tamnar and Gharghoda blocks to ensure all coal transportation by rail.</p>	<p>EE PWD, Raigarh Sh R K Kharma has informed the committee about requirement of immediate construction of approximate 111 Km CC road (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years.</p> <p>Letter issued to PS, PWD, S-1/03, Mahanadi Bhawan, Raipur by this office vide number RDB/NGTOA104/2018/553 dated 07.09.2020 and 6.01.2021 to sanction Rs. 335 crore for construction of 111 km CC road.</p> <p>No response has been received from PS, PWD, Chhattisgarh Government.</p> <p>IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44 Km Railway line work from KharsiaGharghoda- Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda- bhalumuda- Gare Palma will be completed by June</p>

		<p>2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation.</p> <p>Compliance in Progress.</p>
g)	<p>Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies).</p>	<p>Mitigation measure for health issues is to be overseen by the Principal Secretary, health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. Collector Raigarh has assured to arrange the required medical facility in the area by way arranging health screening camps in all villages within next few months.</p>
h)	<p>Strict vigilance by MOEF&CC for green belt development compliance as per EC conditions</p>	<p>MoEF&CC has issued letters to all coal mines for submitting updated status of green belt developed. Responses received are being compiled and submitted in next meeting of the committee.</p>
i)	<p>We also recommend that no further conversion of UG mines to Open Cast mines be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major noncompliance in pollution control and social cost(rehabilitation).</p>	<p>Letter was issued in September 2020 to MoEF&CC (IA-Coal) for implementation of restriction on conversion of UG coal mines to OC coal mines in Tamnar and Garghoda area of District Raigarh. MoEF&CC representative in the committee has now sent follow-up e-mails to IA division reiterating these recommendations.</p>
02	LONG TERM MEASURES	
a)	<p>Commissioning a detailed and comprehensive environmental load carrying capacity study (as mentioned in NGT order), to be carried out by a reputed</p>	<p>CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh.</p>

	environmental research institute over a 24 month period.	The Technical and Commercial proposal is to be provided by NEERI, Nagpur within 15 days. (Annexure-VII)
	Mode of commissioning of this study may please be decided by the Hon'ble NGT and necessary directions may please be issued accordingly	
b)	To reduce the pollution and other impacts caused by road transport of coal and other minerals directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail of closed conveyor belt.	As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY-2019-20 after construction of new rail line between Kharsia-Gharghoda-Korichhapar. Coal dispatch from Korichhapar railway siding commenced in the FY2019-20. SECL and IRCON shall submit detail about total transportation of coal through Rail in FY-2020-21.
c)	Condition of green belt development may be incorporated at TOR stage of EC application to ensure that green belt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by MoEF&CC. Further while granting TOR, EAC should specify the location of the green belt to provide buffer between coal mine and human settlements and specify sufficient width of the green belt for the same.	Copy of Hon'ble NGT order dated 27.02.2020 has been sent to IA-Coal on 18.09.2020 for further necessary action by MoEF&CC. Continued non-compliance of green belt conditions from EAC of coal is observed. Strict monitoring and follow up action by MoEFF&CC is required.
d)	Ministry of coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and backfilling as per fly ash notification of 2009.	Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh had been submitted to be used for filling of fly ash generated from TPP including 3 in Gare Palma Block. Of these 3 only 01 is actually feasible.

		<p>No progress reported from CECB for constitution of the State Level Committee as proposed.</p> <p>No progress reported by CMD, SECL, Bilaspur in spite of several communications from CECB, CPCB and Collector, Raigarh.</p>
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FIELD OBSERVATIONS

1. Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh has been submitted to be used for filling of fly ash generated from TPP. The committee has written to Chairman, CECB, Raipur for constitution of State Level Committee for management of fly ash disposal in the state with implementation of SOP notified by CPCB. The co-operation of SECL is not satisfactory as many applications of TPP of Tamnar & Gharghoda area are lying unattended by SECL.
2. District collector, Raigarh has issued letter to concern departments for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly ash. During visit unscientific disposal of fly ash were observed at 1) Outside TRN Power ash dyke (By TRN Energy Private Limited) , 2) In Tenda village (By TRN Energy Private Limited) , 3) Outside the Mahaveer Energy (By Mahavir Energy & Coal beneficiation Limited). Onsite observations reveal it as legacy fly ash dump.
3. PHED, Raigarh has proposed drinking water supply scheme (Rs. 1270.41 Lakh project cost) for 10 mining effected villages of Tamnar Block. The details submitted by PHED, Raigarh was verified in Kondkel Village and found insufficient with respect to population of the village. The representative of PHED present during visit of the committee has informed that PHED has established 04 hand pumps, 04 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. Hence it has been decided by the committee to obtain data of ground water recharge system in Gharghoda and Tamnar area, from central ground water authority, Raipur along with data of annual ground water level in the area.
4. Installation of CCTV system in mines of the area was reported complied by all mines whereas its proper operation and recording is to be ensured by SECL in its all mines located in Chhal and Gare Palma. RO CECB Raigarh was requested to physically verify the status of transport of coal in properly covered manner.

5. *EE PWD, Raigarh has informed the committee about immediate construction of approximate 111 Km CC road (Raigarh to Dharmjaigarh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. Hon'ble NGT in its order dated 20.11.2020 (point 5) has instructed PS, PWD to sanction the required fund and ensure execution before March 2021. During field visit execution of the work was not observed, hence the issue was further clarified with EE, PWD, Raigarh who informed as under-*

- *Main high way connecting Raigarh to Dharamjaygarh has now been included in National Highway Scheme*
- *Stretch from Chhal mines to Gharghoda has been approved for two lane*
- *Stretch from Punjipatra to Milupara via Tamnar not yet approved.*

In view of the above committee has instructed to EE, PWD, Raigarh to identify badly damaged patches in this stretch and prepare a budget and get same approved so as to complete the work within three months. Stretch from Punjipatra to Milupara via Tamnar has also to be taken on highest priority because of the heavy traffic load on this route.

IRCON International Limited, has informed that work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 04 coal siding and made 01 siding operational. As per data received from major mining company of the area i.e. SECL, it is reported that 35% coal transport increase has been observed in comparison to last financial year 2019- 2020. (Annexure-VII) It is assumed that coal transport by rail may increase by 50% in addition to earlier transport after completion of the project

SECL and IRCON shall submit detail about total transportation of coal through Rail in FY-2020-21.

6. *CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh. The Technical and Commercial proposal is to be provided by NEERI, Nagpur within 15 days. (Annexure-VII)*

7. *The committee has also discussed the issues in meeting with Collector, Raigarh to expedite the required development as directed by Hon'ble NGT in its order. The outcome of the meeting has been considered in the recommendations.*

8. *In order to make information of the Oversight Committee's work public domain, Collector Raigarh agreed to host a webpage on the Raigarh District website and directed the District information officer (Raigarh) to coordinate with the committee regarding the same.*

In view of the above field observations, the recommendations of Oversight Committee are as under

RECOMMENDATIONS –

1. *Chhattisgarh Environment Conservation Board shall prepare list of areas where unscientific disposal of fly ash has occurred with specific remark of status about permission granted.*
2. *Chhattisgarh Environment Conservation Board shall also generate data about total quantity of coal mined in Raigarh, total quantity of coal being used by the industries in Raigarh and quantity of locally mined coal available for TPPs and other industries of Raigarh.*
3. *In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the Oversight Committee about development made in health facilities.*
4. *Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget for 111 km road from Raigarh to Dharamjaygarh and Punjipatra to Milupara via Tamnar and ensure its execution within three months. In this context time bound action plan shall be submitted to ensure timely execution of the work*
5. *Directions from Hon'ble NGT may also be issued to Chhattisgarh Environment Conservation Board, Raipur for constitution of State Level Committee to look in to Scientific Utilization of fly ash in the Chhattisgarh State.*
6. *Directions from Hon'ble NGT may also be issued to CMD, SECL, Bilaspur to expedite disposal of fly ash in abandoned coal mines declared by Central Electricity Authority, Ministry of Power, Government of India vide letter no. 1/8/27/Task Force/ 2013-2019/TCD/230-338 dated 14.02.2020 in consultation with CECEB and complete within three months."*

5. *From the report dated 17.03.2021 annexed to the main report as Annexure-IV, violations have been found on the part of JPL, JSPL, M/s HINDALCO Industries Limited, Mahaveer Bio-Energy Premises and CSPGCL. The observations are quoted below:-*

“FIELD OBSERVATIONS

1. Unscientific dumping of fly ash- The committee has observed unscientific dumping of fly ash at several places, out of these few are temporary/ intermittent and few old dumping of legacy in nature.

- **Within GP IV/1, outside mine void:** Only fly ash dumping as part of backfilling of mine void along with overburden is permitted. No dumping is permitted in open areas; such dumping is leading to ash flying away into human habitation and ecosystems.

Action: As this constitutes violation of EC conditions, CECB to direct JSPL to clean up the unauthorised dump within 7 days and dispose the fly ash in the mine void through the backfilling process. The process of covering fly ash with overburden/ sweet soil appears to be very slow. JSPL shall ensure that fly ash is covered within 07 days to extent possible and also to ensure daily watering or covering up the flu ash during backfilling process.

- **Within GP IV/2-3 outside mine void:** Only fly ash dumping as part of mine void covered with overburden is permitted. No dumping without cover by overburden is permitted in open area as such dumping may lead to ash flying away into human habitation and ecosystem. (Pics5-6)

Action: As this constitutes violation of EC conditions, CECB to direct JSPL to clean up the unauthorised dump within 7 days and dispose the fly ash in the mine void through the backfilling process.

- **Leakage of fly ash slurry from JPL ash dyke:** The ash dyke IIA and IIB of JSPL was observed full and representative of the industry has informed that application for permission to raise the ash dyke height is submitted in MoEF&CC. At the time of visit leakage in the exiting ash dyke was observed and ash laden water was found up to toe drain. Hence possibility of ash dyke breach in future cannot be ruled out. (Pics-07) Action: In compliance of direction from Oversight Committee CECB has inspected the site and directions to the industry is being issued under section 33 of water act. Furthermore, JPL to conduct study through a research organisation of national repute to determine the stability of the exiting ash dyke and take measures required to strengthen as needed. No permission for raising of ash dyke shall be given till safety of the dyke is assured.

- **Outside TRN Power Ash dyke:** TRN power has created an ash dump outside its ash dyke in the village of Nawapara Tenda(Pic- 08). The top of dump is at least 10 feet above the GL. This is not as per definition of dumping in low lying area. Moreover, fly ash utilisation report April 2020 – Jan 2021 provided by TRN

Power shows that they have continued to dump fly ash in low lying areas during May, June and July 2020. There are physical evidences for breaching of mud wall leading to fly ash flowing in to adjoined fields (Pic-9). More over the situation to ash flying into neighbouring habitants and ecosystem could not be ruled out. The dumping of fly ash in Tenda Village is seems to be a legacy dump (Pre-February 2020). This unscientific dumping is visibly eroding in the rain and may flow in to nearby fields and water streams. (Pic-10)

Action: CECB to instruct TRN power to desist from any further dumping, to strengthen the mud dykes, to regularly watering the dump to prevent fly ash dispersal by wind, to prevent any erosion by covering the dump with soil. Actions for the long term remediation of this legacy dump will be determined once mine voids are made available for fly ash disposal.

- **Outside Mahaveer Bio Energy Premises:** Mahaveer Bio energy has created an ash dump behind its premises. (Pics- 11) The top of the dump is at least 10 feet above the GL and does not confirm to the SOP for dumping in low lying area. More over there is not even a proper retaining wall around the dump creating a public hazard.

Action: CECB shall issue show cause notice for improper disposal of fly ash and instruct for removal of the fly ash within 07 days

- **Fire in coal mine/coal dump:** The committee observed smoke in gare Palma IV/2-3 (SECL). (Pic-12) SECL assured the committee that they have followed instructions provided by CIMPHER but measure advised as covering with clay have not worked. Fires/ smoke is constant hazard in coal mining. Nevertheless, fires close to human habitation need to be immediately put on to prevent pollution and health hazard.

Action: CECB to direct SECL to arrest all fire within 500 m of kausampalli and Sarasmal village within 7 days and approach DGMS immediately for obtaining better solution to deal with issues

- **Discharge of untreated waste water-** The committee has observed discharge of untreated water from mine of M/s HINDALCO Industries Limited at Gare Palma IV/4 in to a drain leading to agriculture fields (Pic-13). The mine owner has also not demarcated mining lease area that OB dump activity could be assessed.

Action: As this constitutes a violation of EC conditions, CECB shall direct M/s Hindalco to immediately stop the discharge of effluents, and to install necessary wastewater treatment facilities and have them inspected by CECB within 1 month, show that it meets discharge quality standards set in the EC,

and seek approval of neighboring village Gram Sabha before releasing any further (treated) wastewater out of its mine lease area

The committee also received public representation in field to the effect that the captive coal washery with in the JPL premises was releasing untreated effluents in to the Kelo River that adjoins it. The committee could not visit the site to examine the situation.

Action: CECB has visited the site and reported non-operational status of coal washery, however water samples from River Kelo has been collected and final report will be submitted after completion of sample analysis.

- 2. Green belt and safe distance from public road/settlement-** The committee has found green belt issue and indiscriminate storage of OB dump in CSPGCL (Chhattisgarh State Power Generation Company limited) mine at Gare Palma sector 3. It was observed that dumping of OB was done on both sides of public road without safe distance.

Action: Committee has instructed CECB to inspect the GP III mine and verify the actual location of OB dump as per mining plan. In case of any deviation found strict action shall be initiated in consultation with state mining department as well as Director General of Safety and Mines (DGMS). Regarding Gare Palma IV/5 MoEF&CC to verify and issue appropriate direction.

- 3. Making abandoned mines available for disposal of fly ash-** Update: Ministry of power has identified 3 mines for fly ash dumping in Tamnar-Gharghoda region. Chhaal mine is actually not available because it is being worked. Mand mine is an UG mine has already been decommissioned. It is not easy to reuse it for fly ash dumping. DGMS will be requested to suggest ways in which it can be made available for fly ash dumping. OCP mine at Domnara is found suitable for disposal fly ash available for which SECL, Raigarh has moved the letter to its HO at Bilaspur office seeking permission. In case of permission granted for Domnara mine preference shall be given to TRN Energy Private Limited and some other power producers that generate fly ash and have limited area for fly ash disposal.

Action: Collector Raigarh shall pursue the matter with CMD, SECL, Bilaspur for an early outcome.

- 4. Public health facilities and disease screening-** The committee has also discussed about requirement of health infrastructure and status of available facilities in Gharghoda and Tamnar area. Collector Raigarh has informed the committee that there are adequate facilities available at Tamnar CHC and at the Fortis-JPL multispeciality hospital at Tamnar. Collector

Raigarh has also assured to organise 'health camps' within the next 3 months in all villages surrounding the mines areas in T & G blocks, and then ensure regular screening after that on a yearly basis.

Action: CECB RO Raigarh with DC, Raigarh to reconfirm that JPL hospital is open to all villagers for free of cost treatment.

5. Improve Road quality to reduce spillage and air pollution- Gharghoda and Tamnar area of Raigarh is extremely rich in coal mineral and extensively mined by SECL and other private companies. It was observed that very less percent of coal produced in the area is available for exiting industries of Raigarh. Most of the coal mined is being transported to nearby areas in Chhattisgarh and other states. Hence road condition of Raigarh plays an important role in deterioration of ambient air quality. In order to ensure better ambient air quality an statistical balance is to be developed between road transport and rail transport. It was found satisfactory that development of rail network with five coal siding in the area are at the stage of completion. Hence it is required to decide a time line for transportation of coal by rail only especially being dispatched to other states. Road transport of coal shall be limited for those power plants operational in Raigarh.

EE, PWD, Raigarh has informed the committee that main highway connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme. Stretch from Chhal mines to Gharghoda has been approved for two-lane and its strengthening. Stretch from Punjipathra to Milupara via Tamnar (25 km) and Stretch from Milupara to Lailung not yet approved.

Action: Since the actual process of constructing the NH will take at least two years, PWD is instructed to identify badly damaged patches in this stretch and prepare a budget and get the same approved and acted upon immediately (within 3 months). As far as constructions of other stretches are concerned PWD shall take highest priority because these are the stretches with heaviest traffic density.

6. Inadequate quality of drinking water supply to Kondkhel village- This could not be verified in this visit, but Hindalco was already instructed to stop providing water from Bendra nala, and to provide water from coal mine after proper filtration and treatment. Hindalco has yet to comply.

Action: Direction from collector Raigarh may be issued to M/s HINDALCO and PHED, Raigarh for compliance within three months."

6. Before discussing the report and issuing further directions, we may dispose of IAs which have been filed. I.A. No. 97/2021 has been filed on behalf of M/s Jindal Steel and Power Limited (JSPL) seeking direction for short term measures for transportation of coal. The Expert

Committee having already gone into the matter, we do not find any scope for piecemeal direction in isolation when the matter is being dealt with holistically based on recommendations of a credible committee, which are not shown in any manner to be erroneous. I.A. No. 97/2021 is disposed of accordingly. I.A. No. 25/2021 was filed by the applicant for modification of the constitution of the Committee. We do not find any merit in the said application as report has already been submitted which is being considered. The IA stands disposed of. I.A. No. 382/2021 is for direction to the MoEF&CC not to permit expansion of Hindalco Industrial Limited project for underground mine being converted to Opencast mine. We are of the view that instead of granting the injunction sought, the concerned authorities may look into desirability or otherwise of such expansion, in the first instance and if the applicant is aggrieved, he will be at liberty to take remedies against the permission if so taken. I.A. No. 382/2021 stands disposed of accordingly.

7. We may also note the response of the applicants to the report of the Committee. It is submitted that dumping of fly ash in low lying areas needs to be avoided in view of earlier order of this Tribunal dated 27.02.2020, based on the recommendations of the Committee as required monitoring is not viable. Further, any such unscientific dumping which may have already taken place needs to be remedied. It is further submitted that no timeline has been provided in the recommendations of the Committee for remedying long pending and continuing problems. Actions suggested on behalf of the applicants under different heads are reproduced below:-

“A. Dumping in low lying areas:

- (i) The Applicants reiterate that there should be No dumping of fly ash in low lying area as has been accepted by this Hon’ble Tribunal vide it’s Order dated 27.02.2020 and the Order dated 20.12.2020 be clarified in this regard and directions be issued to the Oversight Committee in this regard.
- (ii) CECB be directed to amend the consent conditions of all TPP and Coal Mine as per MoEF&CC’s notification dated 28th August 2019 as mentioned in the Report of the Oversight Committee
- (iii) The Hon’ble NGT should direct for a clean up of the Fly Ash, since the monsoon rains will start soon and again the legacy ash dump sites will pollute the river and agricultural land.”

B Repairing and Maintenance of roads inside and outside the mine area:

Committee had also visited the new operations at Gare Pelma Sector 3 which is under the Chhattisgarh State Power Generation limited and there too the trucks are using the said road, which the Hon’ble NGT had directed to be made form Raigarh to Milupara, but no mention of such violations have been made in the Report. It is suggested that there should be proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles”

C. *Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case.*

D. *MoEF&CC be directed to forthwith submit the data on Green Belt development before the Hon'ble Tribunal with respect to District Raigarh.*

E. *Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages.*

F. *Installation of adequate number of CCTV and CAAQM stations in coal mining area.*

G. *Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks.*

H. *Comments on the field observations:*

- a. *Impose Environmental damages on the units found in violation of EC conditions as several EC violations have been recorded by the committee but no action has been proposed /recommended by the Committee against the violators*
- b. *Address the issue of fires in the overburden dumps in all operations, which has been left unaddressed.*
- c. *Committee be directed to present plan for water recharge*
- d. *Effluents and coal discharge was noticed in the river and nallas. No measure and punitive action has been suggested for that. This issue may kindly be addressed.*
- e. *The field visit reports of the Oversight Committee should be cross verified with the actual action taken and compliance of the recommendations.*
- f. *The field visits should be more regular and the report of the Oversight Committee should be placed in Public Domain so that the work done so far and the status of action taken is made public."*

8. We have given due considerations to the report of the Committee as well as suggestions made on behalf of the applicants. The recommendations of the Committee need to be accepted. The State Board should prepare list of areas where unscientific disposal of fly ash has taken place and generate data about the quantity of the coal mined, used in the industries and available for TPPs. Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipatra to Milupara, disposal of fly ash in abandoned coal mines and constitution of State Level Committee to look into scientific utilization of the fly ash. Taking such steps is undoubtedly necessary for protection of the environment. The suggestions of the applicants reproduced above also need to be considered by the Oversight Committee.

9. ***The Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law. The Committee may continue to oversee remedial measures in terms of directions of this Tribunal. The Committee may undertake field visit and also interact with all the stakeholders. The Committee will be at liberty to take assistance from any other Expert/Institution.***

10. ***We regret to note failure of the concerned departments of the State of Chattisgarh to respond to the Committee and to perform their Constitutional obligation to protect environment and public health. Pending taking coercive measures for such failures in due course, we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned departments, including PWD and Health on the subject of construction of road and providing health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries.***

11. ***Having regard to the seriousness of the issues involved and their impact on the environment and public health, we direct that the Oversight Committee will now be headed by Justice V.K. Shrivastava, former Judge of Chhattisgarh High Court, available at Bilaspur. He will be entitled to honorarium at the rate of Rs. 2 lakhs per month, apart from logistic support for the purpose of work of the Committee. His tenure will be for six months from the date he joins the first meeting of the Committee, which may be done within one month from today. The amount will be payable by the State PCB - Chhattisgarh Environment Conservation Board.***

12. ***The report about the compliance status as on 30.11.2021 may be furnished to this Tribunal on or before 15.12.2021 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. A copy of the report may also be provided to the authorities who are required to implement the recommendations of the Committee to enable such authorities to file their response, if any, before the next date.***

Report of the oversight Committee dated 16.1.2022 – status of compliance and remedial action

5. In pursuance of above, the Oversight Committee has filed its report on 16.01.2022 through the CPCB. It is stated that the first meeting of the Committee was held on 19.07.2021 and compliance status was discussed.

Claims were invited from the affected villagers and stake holders were heard. Compensation were assessed, after hearing the affected parties, including PWD, Chhattisgarh, Health Department, Chhattisgarh and the erring industries. The compensation assessed by joint Committee against the concerned Departments of Chhattisgarh Government and erring the industries is as follows:-

<i>Sl. No</i>	<i>Name of the industry / department</i>	<i>EC/Penalty/ Fine amount in Rs</i>
01	<i>Principal Secretary, Public Works Department Chhattisgarh Government</i>	<i>1,00,00,000/-</i>
02	<i>Principal Secretary, State Health Department Chhattisgarh Government</i>	<i>1,00,00,000/-</i>
03	<i>M/s TRN Energy Private Limited, Nawapara Raigarh</i>	<i>1,82,40,600/-</i>
04	<i>M/s Mahavir Energy and coal beneficiation Limited</i>	<i>1,42,90,000/-</i>
05	<i>M/s Hindalco Industries Limited Coal Mine</i>	<i>2,09,40,000/-</i>
06	<i>M/s Ambuja Cement Limited Coal Mine (GP IV/8)</i>	<i>75,90,000/-</i>
07	<i>M/s Jindal Steel & Power Limited, Dongramau, Tamnar</i>	<i>11,70,000/-</i>
08	<i>M/s Chhattisgarh State Power Generation Company Limited</i>	<i>75,90,000/-</i>
09.	<i>M/s Jindal Power Ltd, Tamnar</i>	<i>48,30,000/-</i>

6. Out of the above, individuals found entitled to compensation are as follows:-

S. No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. Ghurauram Rathia Nawapara	381/01	0.076	7030

02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895	408017.5 allowe d only Rs.1,11,000/- as claimed 175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Rathia Singh	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

7. As already noted, the compensation has been determined after opportunity to the concerned parties based on the violations found as follows:-

“1. M/s TRN Energy Private Limited, Nawapara, Raigarh-

M/s TRN Energy Private Limited (2x300MW) thermal power plant is located in village Bhengari, Nawapara (Tenda), Gharghoda, Raigarh. The plant started its commercial production in 2016 with an average generation of fly ash 4000 MT per day. The thermal power has generated approximately 28,79,126 MT fly ash during January 2016 to March 2021, out of which 58% (1665007MT) has been disposed in low lying area of village Chote Gumda, Bade Gumda, Nawapara, Tenda and Baansmuda. As per detail submitted by the TPP the area used for disposal of fly ash is approximately 17.378 Hectare.

*TRN power has created an ash dump violating EC conditions outside its ash dyke in the village Nawapara Tenda. **There are physical evidences for breaching of mudwall leading to fly ash flowing into adjoining field even situation to fly ash into neighboring habitants. On field visit on 24-25.08.2021 we have seen that by the side of State High way unscientific fly ash dump has been found , also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Another fly ash dump adjoining to Forest and nalah in personal land of some villager have been seen, due to cracks and land break /erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda. The top of Dump was at least 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoining field. To prevent the same no remedial measures has been taken by the PP. On current visit dated 25.08-2021 we find that some of the fields have become useless, in agricultural***

field flowing of fly ash was found. On road side flow we could see the flowing of fly ash in heavy quantity. A pretty big area has been covered under flowing of fly ash from this Dump.

Representative from TRN admits all these OB dumps and contended that after obtaining the permission from land owner and Gram Panchayat Fly ash dump have been made.

Although they brought some papers and made attempt to show that they have not violated the Environmental conditions, but could not produce permission / consent of State Pollution Control Board. The thermal power plant has also submitted copy of study report conducted in 2018 by ISM Dhanbad which recommends about no metal contamination in ground water due to leaching from fly ash disposed in low lying area.

Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines gives liberty to loose disposal of fly ash that's too above ground level.

Chhattisgarh Environment Conservation Board has informed about issue of closure notice to the industry. TPP has submitted the reply of notice which is under consideration for decision. The representative of the industry have informed about construction of new ash dyke for which land has been acquired in 2017 and Environmental clearance obtained in year 2011.

Ash Dyke belonging to TRN Energy Ltd, on visit we find that at one place wall of the dyke is severely damaged and we apprehended that accident may took place, Nodal Officer informed the facts for repairs forthwith so as to avoid any unfortunate event. Underground water discharge from dyke is there and the discharged water is flowing to agriculture field. Water samples have been collected. Fly ash flying over the ash dyke has also been seen. Even some of the persons were seen roaming over the dried fly ash lying in the dyke. It appears that there is no recycle water system operating. Construction does not appear to be scientific.

Representatives of TRN does not dispute the damage but they contended that Railway has made dump of the soil in their outer wall and that dump has been eroded due to rain but could not show any evidence to support his contentions. They also stated that as per original permission accorded by MoEC&CC they have constructed this second Ash dyke and for perusal shown the permission letter. In this permission letter there is no sanction of more than one ash dyke even as per deliberation it could come to know that first ash dyke is inside the Plant and this ash dyke has been made outside the plant. Whether ash dyke should have been built in the vicinity of habitants, to reply this question they could not able to show

any legal authority or any permission. So far as water discharge is concerned they stated that this water discharge belongs to Railway.

For non compliance of the environmental standard/ violations of legal direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved. TRN is liable for environmental compensation.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s TRN Energy Private Limited, Nawapara is also included in that list for Environmental Compensation of Rs. 1,48,80,488 on which Hon'ble Supreme Court vide its order dated 04.11.2019 has directed deferment of the proceedings.

In addition to above and in view of a number of breaches of environmental conditions not earlier considered for compensation, independent Environmental Compensation for following period is calculated as under-

- **Initial date of compensation- 01.04 .2020**
- **Last date of compensation- 30.11.2021**
- **Number of days- 608**
- **EC in Rs. 1,82,40,600/- (One Crore eighty two lakhs forty thousand and six hundred)**

2. M/s Mahaveer Energy & Coal Benification Limited –

M/s Mahaveer Energy & Coal Benification Limited is Biomass based 12MW Thermal Power Plant located in Village Bhengari, Gharghoda, Raigarh. The plant started its commercial production in 2014 with an average generation of fly ash 20,000 MT per annum. The thermal power has generated approximately 1,39,839 MT fly ash during April 2014 to March 2021, out of which 0.04% (56MT) has been disposed in low lying area of village Bhengari. The industries during hearing have submitted documents related with agreement for fly ash use by Sh. Saroj Kumar S/o Sh. Prabhakar Kumar in Brick manufacturing. This agreement was done on 04.12.20 indicating that fly ash generated before 04.12.2020 have been disposed in low lying area. The industry has also provided copy of revenue records in support of ownership of the land. Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. **None of the notifications or guidelines gives liberty to loose disposal of fly ash that's too above ground level. No consent has been obtained from CECB.**

The above said notification only permits for reclamation and compaction of fly ash in low lying area but do not give liberty to loose disposal of fly ash that's too above ground level. **The oversight**

committees during its visit have observed heaps of disposed fly ash giving its way to become air borne or flow with rain water in drain leading to surface water contamination.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s Mahaveer Energy & Coal Benification Limited is not included in that list for Environmental Compensation because the industry has submitted report of 100% utilization in manufacturing of fly ash brick to Chhattisgarh Environment Conservation Board which seems to be misleading information given to statutory authority.

Mahaveer Bio Energy has created an ash dump behind its premises in violating the SOP and EC even creating a public hazard. On field visit dated 25-08-2021 we found near a temple there was a fly ash dump adjoining to Forest and River, due to erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground and as per persons gathered there the land is govt. land recorded as "Chote Jhad Ka Jungle". No guidelines as prescribed since 1999 have been followed. As per report of committee dated 11-10-2019 it has been found that M/S Mahaveer Energy is indulging in extensive and irresponsible disposal of fly ash in village Bhengari. In that report Fig. 3 Éxtent of fly ash dumping in agricultural land in Bhengari Village close to Bhengari Nala and Fig. 4. 40 feet height flyash dump by M/s Mahaveer Energy in Bhengari village (in the name of low lying areas dump). On recent visit on 25-08-2021 we saw the spot (Fig.4 of that report) and found that earlier reporting still continues. We also saw evidence of flowing fly ash from upper portion to lower portion. On 15-17 March visit it has been noted that Mahaveer Energy has created an ash dump behind its premises the top of dump is at least 10 feet height above the ground level and does not confirm to the SOP for dumping in low lying area, even there is no proper retaining wall around the dump creating a public hazard. In present visit we still found the Dump present in open sky flying ash in environment.

Representative from Mahaveer Bio Energy to defend their action have accepted all those dump but their contention is that because of demand of Mandir Samiti, dump near Mandir has been made, other dump are in their own land, they are using fly ash in making the bricks under their own kiln and also providing fly ash to other kiln holder but to support he could not produce land owner ship in his name or other documents regarding actual use of fly ash in making the bricks.

For non compliance of the environmental standard/ violations of legal direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved. M/s Mahaveer Energy & Coal Benification Limited is liable for environmental compensation.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s Mahaveer Energy & Coal Benification Limited is not included in that list for Environmental Compensation because the industry has submitted report of 100% utilization in manufacturing of fly ash brick to Chhattisgarh Environment Conservation Board which seems to be misleading information given to statutory authority.

Environmental Compensation is calculated as under-

- Initial date of compensation- 01.01.2018
- Last date of compensation- 30.11.2021
- Number of days- 1429
- Operation factor considered- 0.5 (small scale- biomass plant)
- EC in Rs. 1,42,90,000/- (One crore forty two lakhs ninety thousand)

3. Penalty/Fine on Principal Secretary Public Works Department, State of Chhattisgarh.

Committee constituted vide order dated 22-07-2019 after due consideration including field visit submitted its report and the recommendations made therein were considered by the NGT vide order dated 27-02-2020

Short term measures

4.1 f. Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

Long term measures

4.2 b) To reduce the pollution and other impacts caused by road transport of coal and mother minerals , direction may be issued that coal transport by road from coal mines or thermal power plants in these two blocks will be permitted only for a year, after which transport must done by rail or closed conveyor belt only.

Hon'ble the NGT in order dated 27-02-2020 in para 4 has mentioned that **"We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for protection of environment and public health and environmental rule of law.**

Further compliance review status as on 09-11-2020 has been filed and considered by Hon'ble NGT vide their order dated 20-11-2020.

02. Long Term Measures

REVIEW STATUS AS ON 09-11-2020

As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY 2019-20 after construction of new rail line between Kharsia – Gharghoda-Korichhapar, coal dispatch from Korichhapar railway siding commenced in FY 2019-20. It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2020.

The Committee on field observation has made recommendation as below:-

EE PWD was present before committee to apprise the status of PWD roads in the area. Committee has observed very bad road conditions in Tamnar and Gharghoda area which seems to be one of the measure factors for deterioration of ambient air quality. EE PWD Sh. Khamra has informed the committee about requirement of immediate construction of approximate 111 KM CC road (Raigarh to Dharamjay Garh about 76 Km and Punjipathra to Milupara about 35n Km.) **but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda.** More over SECL has paid an amount of 42 Crore to Raigarh PWD for construction of 19 Kms, 7m wide tar road from Gharghoda to Jampali in compliance of NGT order.

RECOMMENDATIONS

2. Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget of Rs. 335 Crore (@ Rs 3.00 crore per km) for construction of CC road approximately 111 km length of 7 m width (Raigarh to Dharamjay Garh about 76 km and Punjipatra to Milupara about 35 km) and insure its execution before March 2021. In this context time bound action plan with bank guarantee of Rs. 35 Crore may be obtained from PWD, Chhattisgarh to ensure timely execution of the work.

Hon'ble NGT passed order that Principal Secretary Health and the PWD Department, Chhattisgarh Government may act as per recommendations of the committee. (NGT order dated 20-11-2020)

Further compliance review status as on 15-03-2021 has been filed and considered by Hon'ble NGT vide their order dated 24-06-2021.

f). Proper repairing and maintenance of road outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

REVIEW STATUS AS ON 15-03-2021

EE PWD, Raigarh has informed the committee about requirement of immediate construction of approximate 111 KM CC road (Raigarh to Dharamjay Garh about 76 Km and Punjipathra to Milupara about 35n Km.) but due to budget constraint the work is pending since last several years.

Letter issued to PS, PWD, S-1/03 Mahanadi Bhawan, Raipur by this office vide number RDB/NGTOA 104/2018/553 dated 07-09-2020 and 06-012021 to sanction Rs. 335 crore for construction of 111 km CC road. No response has been received from PS, PWD Chhattisgarh Government.

FIELD OBSERVATION S

5. EE PWD Raigarh has informed the committee about immediate construction of approximate 111 Km CC road (Raigarh to Dharamjaygarh about 76 Km and Punjipathra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. Hon'ble NGT in its order dated 20-112020 (point 5) has instructed PS, PWD to sanction the required fund and ensure execution before March 2021. During field visit execution of the work was not observed, hence the issue was further clarified with EE, PWD, Raigarh who informed as under:-

- > Main High way connecting Raigarh to Dharamjaygarh has now been included in National Highway Scheme
- > Stretch from Chhal Mines to Gharghoda has been approved for two lanes
- > Stretch from Punjipathra to Milupara via Tamnar not yet approved

In view of the above committee has instructed to EE, PWD, Raigarh to identify badly damaged patches in this stretch and prepare a budget and get the same approved so as to complete the work within three months. Stretch from Punjipathra to Milupara via Tamnar has also to be taken on highest priority because of the heavy traffic load on this route.

RECOMMENDATIONS

4. Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget for 111 km road from Raigarh to Dharamjaygarh and Punjipathra to Milupara via Tamnar and ensure its execution within three months. In this context time bound action plan shall be submitted to ensure timely execution of work.

FIELD OBSERVATIONS AS NOTED IN PARA 5 OF THE ORDER DATED 24-06-2021.

5. Improve Road quality to reduce spillage and air pollution- Gharghoda and Tamnar area of Raigarh is extremely in coal mineral and extensively mined by SECL and other private companies. It was observed that very less percent of coal produced in the area is available for existing industries of Raigarh. Most of the coal mined is being transported to nearby areas in Chhattisgarh and other states. Hence road condition of Raigarh plays an important role in deterioration of ambient air quality. I order to ensure better ambient air quality and statistical balance is to be developed between road transport and rail transport. It was found satisfactory that developments of rail network with five coals siding the area are at the

stage of completion. Hence it is required to decide a time line for transportation of coal by rail only specially being dispatched to other states. Road transport of coal shall be limited for those power plants operational in Raigarh.

EE PWD, Raigarh has informed the committee that main highway immediately connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme. Stretch from Chall mines to Gharghoda has been approved for two lane and its strengthening. Stretch from Punjipathra to Milupara via Tamnar (25 km) and stretch from Milupara to Lailung not yet approved.

Action : Since the actual process of constructing the NH will take atleast two years , PWD is instructed to identify badly damaged patches in this stretch and prepare a budget and get the same approved and acted upon immediately (within 3 months). As for as constructions of other stretches are concern PWD shall take highest priority because these are the stretches with heaviest traffic density.

Hon'ble the NGT in para 8 have observed that Steps need to be taken expeditiously for development of health facilities , constructing necessary road from Raigarh to Dharamjaygarh and from Punjipathra to Milupara,..... In para 9 directed that "The Oversight Committee may make assessment of compensation for the violation on the basis of which the statutory Board may take further action, following due process of law." In para 10 passed order that "We regret to note failure of the concerned departments of the state of Chhattisgarh to respond the Committee and to performs their constitutional obligation to protect environment and public health. Pending taking coercive measures for such failure in due course , we direct the Chief Secretary , Chhattisgarh to ensure necessary action on the part of the concerned department , including PWD and Health on the subject of construction of road and providing Health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries"

Thrice Hon'ble NGT passed order against PWD and Health Department of State of CG finally apprised them towards penal consequences of disobedience but both these department took the said orders in a very casual manner and even gave a deaf ear to those orders.

Opportunity of hearing for consideration of environment compensation/ penalty has been provided. Intimation was sent to PS PWD Chhattisgarh Government to join the committee meeting on 16th September 2021 for hearing about progress/ constraint observed in delivering the target defined in action plan submitted to Hon'ble NGT. Chief Engineer, Bilaspur and Executive Engineer Raigarh of PWD attended the meeting and briefed the progress as under-

1. An amount of Rs.6274.33 Laks is sanctioned on 08.09.2021 for 27.50 km CC road from Punjipathra to Tamnar.
2. Approval granted on 23.02.2021 for an amount of 2032.95 Lakhs for renovation work of 13.40 km road from Raigarh to Gharghoda.
3. Approval granted on 08.09.2021 for an amount of 1797.25 Lakhs for renovation & Strengthening work of 10 km road from Chaal to Gharghoda.
4. So far as patch repair work is concerned, no documents or material could be produced even otherwise we could not see any repair work going on, on the roads.

All above sanctions and approvals are subject to acquirement of land, Release of Loan and two years' time for completion. **Till date there is no progress regarding acquisition of land, sanction of loan, etc. All these facts itself shows that matter has not been given any seriousness or to say in near future the road is not going to be made.**

The committee is not satisfied with submission.

Matter to be considered for imposition of Penalty/Fine

From afore stated complete facts it is clear that dept. of PWD did not care to follow the directions of the committee and also did not complied the orders of the Hon'ble NGT even they misguided committee and NGT by informing that road main highway connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme which appears to be not correct because no such document to show that NH has taken over the Road has been provided. Although they received amount from SECL despite that they did not took interest to construct road. Non Construction of road and lack in repair work is one of the reason for pollution caused by road transport even there is no surety that in near future the construction of road will be made by the department. In fact this is a case of deliberate disobedience of remedial measures by the PWD, therefore for environment breach Depart. of PWD is also responsible and therefore cannot escape its liability to pay Penalty / Fine.

If environmental Compensation is to be levied as per calculation below-

- Start date non- compliance- 07.09.2020
- Last date of compensation- 30.11.2021
- Number of days- 448
- Rate Rs. 30,000 per day
- EC comes to Rs- 1,34,40,000 (One Crore, thirty four lakhs, forty thousand)

But we are of the opinion that Penalty/ fine should be imposed , therefore after due consideration we assess/propose Penalty/Fine imposed on Principal Secretary PWD, State of CG Rs.1,00,00,000/- (Rs. One Crore)

Penalty/Fine on Principal Secretary, Health Department, CG Govt.

Committee constituted vide order dated 22-07-2019 after due consideration including field visit submitted its report and the recommendations made there in were considered by the NGT vide order dated 27-02-2020

Short term measures

g. Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (4A 314/2014 CZ) case. (Action by respective coal mine companies). Hon'ble the NGT in order dated 27-02-2020 in para 4 has mentioned that "We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for protection of environment and public health and environmental rule of law. In para 5 have made reference to applicants contentions and passed order in para 6. **In para 6 have ordered that "Mitigation measures for health issues may be over seen by the Principal Secretary , Health, Govt. of Chhattisgarh. For this purpose , the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary , Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds."**(NGT order dated 27-02-2020)

Further compliance review status as on 09-11-2020 has been filed and considered by Hon'ble NGT vide their order dated 20-11-2020.

01. *Short term measures*

g. Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies)

REVIEW STATUS AS ON 09-11-2020

"Mitigation measures for health issues may be over seen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds."

02. *Long Term Measures*

b) To reduce the pollution and other impacts caused by road transport of coal and other minerals, direction may be issued that coal transport by road from coal mines or thermal power plants in these two blocks will be permitted only for 1 year, after which transport must done by rail or closed conveyor belt only.

REVIEW STATUS AS ON 09-11-2020

The Committee on field observation has made recommendation as below:-

RECOMMENDATIONS

1. In order to ensure development of health facilities in the village of mining affected area, Principal Secretary, Health, Chhattisgarh Government may be advised to keep informing the oversight committee about development made in health facilities’.

Hon’ble NGT passed order that Principal Secretary Health and the PWD Department, Chhattisgarh Government may act as per recommendations of the committee. (NGT order dated 20-11-2020)

Further compliance review status as on 15-03-2021 has been filed and considered by Hon’ble NGT vide their order dated 24-06-2021.

01. Short term measures

- g). Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies)

REVIEW STATUS AS ON 15-03-2021

“Mitigation measures for health issues may be overseen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. Collector Raigarh has assured to arrange the required medical facility in the area by way of arranging health screening camps in all villages within next few months.

RECOMMENDATIONS

3. In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the Oversight Committee about development made in health facilities.

FIELD OBSERVATIONS AS NOTED IN PARA 5 OF THE ORDER DATED 24-06-2021.

4. Public health facilities and disease screening – The committee has also discussed about requirement of health infrastructure and status of available facilities in Gharghoda and Tamnar area, Collector Raigarh has informed the committee that there are adequate facilities



available at Tamnar CHC and at the Fortis – JPL multispeciality hospital at Tamnar. Collector Raigarh has also assured to organize “health Camps” within the next three months in all villages surrounding the mines areas in T & G blocks, and then ensure regular screening after that on a yearly basis.

Hon’ble the NGT in para 8 have observed that Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipathra to Milupara,.....In para 9 directed that “The Oversight Committee may make assessment of compensation for the violation on the basis of which the statutory Board may take further action, following due process of law.” In para 10 passed order that “We regret to note failure of the concerned departments of the state of Chhattisgarh to respond the Committee and to perform their constitutional obligation to protect environment and public health. Pending taking coercive measures for such failure in due course , we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned department, including PWD and Health on the subject of construction of road and providing Health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries”

Thrice Hon’ble NGT passed order and finally apprised them to wards penal consequences of disobedience but department took the said orders in a very casual manner and even gave a deaf ear to those orders.

Opportunity of hearing for consideration of environment Penalty/Fine has been provided to the department.

Intimation was sent to PS, Health, Govt. of Chhattisgarh to join the committee meeting on 16th September 2021 for hearing about progress/ constraint observed in delivering the target defined in action plan submitted to Hon’ble NGT. PS Health Chhattisgarh Government could not ensure his presence in person/representative in the meeting.

The documents and information provided about infrastructure of health facilities reveals that health care facilities are insufficient and no serious efforts have been made to improve it even on the direction of Hon’ble NGT.

Hence the matter to be considered for imposition of environmental Penalty/Fine.

- The oversight committee in its report dated 14.10.2019 submitted to Hon’ble NGT had recommended proper and free health care facilities with multispecialty treatment system may be provided in all coal mine adjacent villages.

In this context Hon'ble NGT has given the liberty to PS Health Government of Chhattisgarh to oversee the mitigation measures for health issues. For this purpose the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds.

- *In its further order dated 20.11.2020 Hon'ble NGT has directed PS, Health Govt. of Chhattisgarh to keep informing the oversight committee about development made in health facility. In spite of the direction issued by Hon'ble NGT no progress was submitted PS, Health, Govt. of Chhattisgarh to the oversight committee.*
- *Hon'ble NGT in its order dated 27.02.2020 has directed that mitigation measures for health issues may be overseen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health, Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. A copy of this order be sent to the CPCB, Principal Secretary, Health, Govt. of Chhattisgarh, Ministry of Coal as well as the MoEF&CC by e-mail.*
- *Hon'ble NGT in order dated 24.06.2021 on point number 10 mentioned that
"We regret to note failure of the concerned departments of the State of Chhattisgarh to respond to the Committee and to perform their Constitutional obligation to protect environment and public health. Pending taking coercive measures for such failures in due course, we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned departments, including PWD and Health on the subject of construction of road and providing health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries."*

Principal Secretary Health neither responded the above orders issued by Hon'ble NGT nor could do any work to protect environment and public health. He not only took all the orders passed by Hon'ble NGT in a very casual manner but also gave a deaf ear to those orders. His non involvement in taking remedial measures is one of the reason to increase public health hazard which arose due to air and water pollution. Neither he took part in environmental Penalty/Fine hearing although noticed nor could show any ground to exempt him from levying the Penalty / Fine.

If environmental Compensation is to be levied as per calculation below-

- Start date non-compliance- 27.02.2020
- Last date of compensation- 30.11.2021
- Number of days- 641
- Rate Rs. 30,000 per day
- EC comes to Rs. 1,92,30,000 (One Crore, ninety two lakhs, thirty thousand)

But we are of the opinion that Penalty/ fine should be imposed , therefore after due consideration we assess/propose Penalty / Fine imposed on Principal Secretary PWD, State of CG Rs.1,00,00,000/- (Rs. One Crore)

5. Physical verification of progress as on 30.11.2021 and Environmental Compensation

Visit of CSPGCL Coal Mines (Gare Pelma Sector -III) - The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB dump on one side Pic-02 of the road was located at approximately 80m distance from road side but OB dump all along road was not within prescribed distance, even on many places it is adjacent to road. Dump process is still continuing . We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Villagers assembled there and applicant's representatives have stated there that because of dump and traffic in road this place has been declared as accidental zone and within a year around 10 persons have been killed in accident. Road condition is very bad. Although in one side Provision of check drains have been seen but appears to be not having width of adequate size, the sludge or waste materials along with water is passing through the agricultural fields and is terminating in nallah.(Subsequently we come to know that this is not a Nala but River)((O.B. Dump in CGSPGCL mine at Gare Palma sector 3 observed on field visit during 15-17 March 2021 on both sides of Public Road). This public road is within the mining area and as stated and shown by company officers present there as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not complied the directions of notification 2009.Although in one side Provision of check drains have been seen but in other side there appears no provision of check drains and garland drains have been made to ensure that the sludge or waste materials does not go into the nullah. (Subsequently we come to know that this is not a Nala but River).

For environmental compensation and for remedial measure CGSPGCL , was required to be heard on Maintenance of Public Road, on illegal OB dump , non use of fly ash , non construction of garland drains and proper settling tanks , Sludge and waste materials passing through agricultural field destroying crop production going to Nallah. (Subsequently we come to know that this is not a Nala but River) therefore the mine authorities were instructed to present in hearing

meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur. **Environment compensation hearing dated 14th September 2021. Heard, Chhattisgarh State Power Generation Company Limited Coal Mines (Gare Pelma Sector -III) –**

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB Dump has been made on both sides of road even in some places adjacent to road. This public road is within the mining area and as stated and shown by companies officer present there, as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not complied the directions of notification 2009. For Mining operation roads with the mines area is to be constructed by the lessee and lessee has to divert public roads, at his own cost to facilitate scientific mining. We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Condition of the road is bad. The mine authorities were present in hearing meeting with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

The representatives of CSPGCL presented the mining plan in which location of the OB dump is sited on the same place subject to diversion of PWD road passing between lease area. They stated that CSPGCL has deposited required amount with PWD, Raigarh for diversion of the road. There is no material to know whether PWD is diverting the road or not and if they intend to divert the road, by which time they may start and complete the diversion. Hence storage of OB dump near to public road may create danger to public passing through the road. **In this context committee was of the opinion that CSPGCL shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect the public interest from accident as well as fugitive emission. CSPGCL shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. CSPGCL shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash OB dump shall be followed.**

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron structure up to a height of minimum 3m at 50m distance from road on both side of road along full road length in leased area. The said construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

On verification visit dated 24-11-2021 we found that construction of physical barrier of steel sheet mounted on iron structure was in

progress. Mines authorities present there stated the further minimum 15 days time may take to complete the work. They also apprised that CSPGCL obtained necessary permission from DGMS for compliance of notification 2009 utilization of 25% of fly ash. M/s CSPGCL vide its letter dated 18.11.2021 requested to DGMS for obtaining permission to use fly ash in its OC mine Gare Pelma sector-III as per study report submitted by CIMFER. Director of Mine Safety, Raigarh vide its letter dated 23.11.2021 has restricted fly ash dumping in the opencast working till submission of clarification for factor of safety (FOS) and suitable geometry of inpit and external dump design by scientific agency.

Violations of environmental conditions and directions as noted above brings the Chhattisgarh State Power Generation Company Limited Coal Mines (Gare Pelma Sector -III) under four corners for payment of Environmental compensation.

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
5. LF, has been taken 1.0 for population less than one million
Environmental compensation is calculated as under-

- The CTO issued on 23.10.2020 has condition of fly ash utilization in stowing.
- Consent condition was amended on 22.06.2021 for utilization of fly ash in OB dump.
- Date of first observation of non-compliance- 17.03.2021
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 253 days

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)

6. Visit of M/s Ambuja Cement Coal Mines (Gare Pelma Sector-IV/8)-

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit of the committee OB dumping was observed on both side of the road (Pic-03). This public road is passing through the mines area and utilized by public, Mines operator and coal transporters. **No garland drains with proper settling tanks have been constructed. 25% of fly ash as required in 2009 notification for OB dump has not been done.** We saw a number of coal loaded trucks passing through this road, Road condition is very bad. Ambuja Cement Ltd to be heard on Maintenance of Public Road, on illegal OB dump, non use of fly ash, non construction of drains and proper settling tanks . The mine authorities were instructed to present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

Heard, M/s Ambuja Cement Limited Coal Mines (Gare Pelma Sector -IV/8) on Environment compensation on 14th September 2021

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB dump was located very near to road side which was creating danger to public and transport moving on road. The mine authorities were present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

The representatives of M/ s Ambuja Cement Limited presented the mining plan in which location of the OB dump is sited at distance of minimum 45m from road side subject to diversion of PWD road passing between lease area. Officials of M/s Ambuja Cement Limited stated that they have deposited required amount with PWD, Raigarh for diversion of the road but there is no material to know whether PWD is diverting the road or not and if they intend to divert the road , by which time they may start and complete the diversion . Hence storage of OB dump near to public road may create danger to public passing through the road. In this context committee was in opinion that M/s Ambuja Cement Limited shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect the public interest from accident as well as fugitive emission. M/s Ambuja Cement Limited shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. M/ s Ambuja Cement Limited shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash in OB dump shall be followed.

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron

structure up to a height of minimum 3m at 50m distance from road on both side of road along full road length in leased area. The said construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

On verification visit dated 24-11-2021 we found that construction of physical barrier of steel sheet mounted on iron structure was in progress. Mines authorities present there stated that further minimum 15 days time may take to complete the work. They also apprised that they could not obtain necessary permission from DGMS for compliance of notification 2009 utilization of 25% of fly ash.

Violations of environmental conditions and directions as noted above brings the M/s Ambuja Cement Limited Coal Mines (Gare Pelma Sector -IV/8) under four corners for payment of Environmental compensation.

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs
 PI= Pollution Index of Industrial Sector
 N= Number of days of violation took place
 R= A factor in Rs
 S= Factor for scale of operation
 LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
5. LF, has been taken 1.0 for population less than one million

Environmental compensation is calculated as under-

- The CTO issued on 23.10.2020 has condition of fly ash utilization in OB dump and stowing.
- Date of first observation of non-compliance- 17.03.2021
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 253 days

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)(30,000x253)

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)

7. M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5)

The committee has also visited the site of M/s Hindalco Industries Limited coal mine on 24th November 2021 and found that the mine is divided in two parts. In both parts mines operation is continuing. Back filling was also being done without utilizing fly ash. **OB Dump has also been created without utilizing fly ash. Green belt has not been developed, however in OB dump they have planted some ornamental plant like GUL MOHAR, some fruit plant like mango, Guava etc. these plants are very small and their survival is under question. Trees to be planted in green belt or otherwise in mines area are not planted. We could not find garland drain along OB dump and settling ponds. From officials present we could come to know that coal extracted from here is supplied to their captive power plant situated in ORISSA. When they have their own power plant, they are also producing fly ash but are not utilizing their fly ash here in their mines in back filing or in OB dump even they did not tell how they are disposing their own fly ash. M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5) has been directed to be present to defend their liability to pay environmental compensation in environmental compensation hearing on 25.11.2021 at Bilaspur with all relevant documents.**

Heard M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5) on 25-11-2021 on assessment of environmental compensation.

Representatives from M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/ 4 & 5) appeared and contended that they have on mobile connectivity contacted DGM for permission and guidance for utilization of fly ash ,who gave a date for their inspection. They stated that after getting permission from DGM they may take steps to utilize Fly ash in back filling and OB Dump.

The mines is found divided in two parts . In both parts mines operation was continuing. Back filling was also being done without utilizing fly ash. OB Dump has also been created without utilizing fly ash. Green belt has not been developed, however in OB dump they have planted some ornamental plant like GULMOHAR, some fruit plant like mango etc. these plants are very small and their survival is under question. We could not find garland drain along OB dump and settling ponds. From officials present we could come to know that coal extracted from here is supplied to their captive power plant situated in ORISSA . When they have their own power plant, they are also producing fly ash but are not utilizing their fly ash here in their mines in back filing or in OB dump even they did not tell how they are disposing their own fly ash.

M/s Hindalco Industries Limited was to provide adequate garland drain along with OB dump with sufficient number of settling ponds to ensure suspended solid free discharge of storm water in rainy season. Hindalco Industries Limited was to comply with the

provisions of notification 2009 for utilization of 25% of fly ash in OB and back filling. They were also required to develop proper Green Belt. In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million
 - The CTO issued on 02.01.2020 has condition of fly ash utilization in OB dump and stowing.
 - Date of first observation of non-compliance- 02.01.2020
 - Last date taken for assessment- 30.11.2021
 - Number of days for non-compliance- 698 days

EC in Rs. 2,09,40,000/- (Two Crore, nine lakhs forty thousand) (30,000/-x698)

8. Visit of Gare Palma IV/01 OC Mines- The captive power plant of M/s Jindal Steel & Power Limited,

Dongramau has permission for disposal of its fly ash in Gare Palma IV/01 open cast mines. During visit of the committee on 24th August 2021 it was observed that **fly ash mixed with OB being disposed near Nalah passing in mining lease area.** (PIC- 07) The distance between disposal site and Nalah seems to be less than 500m and during rainy season fly ash may take a way to River kelo through Nalah. The issue has been considered as negligence in selection of site and M/s JSPL has been directed to be present in environmental compensation hearing meeting on 15.09.2021 at Bilaspur with all documents EC, Consent and quantity of fly ash disposed and remediation proposal if any.

On environmental compensation hearing representative from JSPL were present who have been heard and findings recorded that captive power plant of M/s Jindal Steel & Power Limited, Dongramau has permission for disposal of its fly ash in Gare Palma IV/01 open

cast mines. During visit of the committee on 24th August 2021 it was observed that **fly ash mixed with OB being disposed near drain/ Nala (a watercourse) passing in mining lease area. The distance between disposal site and drain seems to be less than 500m and during rainy season fly ash may take a way to River Kelo through drain/ Nala (a watercourse).** The issue has been considered as negligence in selection of site and M/s JSPL has been directed to shift the same on or before 30.11.2021.

On verification on 24-11-2021 we found that fly ash mixed with OB being disposed near drain/ Nala (a watercourse) passing in mining lease area has been removed. M/s JSPL vide its letter dated 28.10.2021 addressed to Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh has informed about removal of OB on 24.10.2021. The committee has also visited the site on 24th November 2021 and found that all OB dump was removed from the site. In view of noncompliance from 24th August 2021 to 24th October 2021 (62 days) EC may be imposed. In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs
 PI= Pollution Index of Industrial Sector
 N= Number of days of violation took place
 R= A factor in Rs
 S= Factor for scale of operation
 LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million

Date of observation of noncompliance- 15.09.2021

Date of observation of compliance – 24.10.2021

Hence EC (in Rs) = 30,000 X 39 = 11,70,000/- (Eleven Lakhs seventy thousand Only)

9. M/s Jindal Power Limited, Tamnar, Raigarh-

It was reported in over sight committee visit on 17.03.2021 about leakage of fly ash slurry from ash dyke of M/s Jindal Power Limited. The committee had suggested M/s JPL to conduct study through a research organization of national repute to determine the stability of the existing ash dyke and take measures required to strengthen as needed. In order to take the status, the oversight committee once

again visited the site on 24th August 2021. Although spot shown by the officials of the JPL we could not observe leakage on that area from the dyke but we are not sure about other part of the dyke. The committee has discussed in details about process adopted for repair of the leakage and directed M/s JPL to submit the authentic report about strength of repairing undertaken and the stability report of the existing ash dyke from research organization of national repute on or before 30-11-2021.

JPL after complying the direction have submitted stability report conducted by NIT Raipur but did not file any documents to show details about process adopted for repair of the leakage or to establish repair conducted by competent person/ authority therefore is liable for Environmental compensation from 17-03-2021 to 24-08-2021

In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs
 PI= Pollution Index of Industrial Sector
 N= Number of days of violation took place
 R= A factor in Rs
 S= Factor for scale of operation
 LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million

- The Environmental condition has been violated from 1703-2021
- Date of first observation of non-compliance- 17-03-2021
- Date of compliance taken for assessment-24-08-2021
- Number of days for non-compliance- -161days
- Determination of Environmental Compensation (EC)
- Hence EC (in Rs) = 30,000 X161 = 48, 30,000/- (Forty Eight Lakhs Thirty thousand Only)

10. Calculation of property damage on application submitted by villagers in favour of the applicant against TPPs

Applications were against TRN Energy Pvt.Ltd. and against M.s Mahaveer Energy& Coal Benification Ltd. Although copy of the application are been served on these TPPs but they did not file any reply.

For hearing against these applications, both the parties remained absent. For verification services of concerned Patwari have been taken. As per information provided by the Patwari only 4 persons were found entitled therefore for those persons compensation has been calculated and remaining applications have been rejected.

Calculation of property/ crop damage was done on the basis of area and tentative loss to crop and rate per Quintal

As per report of the area Patwari Govt. has fixed per hector crop 37 quintal and price including bonus Rs.2500/- per quintal of paddy.

The damage claims submitted by the affected villagers and farmers were scrutinized by officials of land revenue departments. They have given the affected area of claimant. Environmental compensation in the shape of damage has been calculated as below damage claim submitted by villager details of affected land is as under-

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. Ghurauram Rathia Nawapara	381/01	0.076	7030
02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895	408017.5 allowed only Rs.1,11,000/ -as claimed 175287.5 allowed Rs.1,11,000/ -as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

- Note- Damage

Note damage calculated based on productions of 37 quintals per hectare considering rate of crop @ Rs. 2500 per quintal.

- The committee has decided that as environmental compensation / damage claim will be paid by M/s TRN Energy Private Limited to the affected villagers/ farmers as per above list accordingly.

At a glance

Environmental Compensation/ Penalty/ Fine have been calculated for non-complying industries and departments. The details are as under-

<i>Sl. No</i>	<i>Name of the industry / department</i>	<i>EC/ Penalty/ Fine amount in Rs</i>
01	<i>Principal Secretary, Public Works Department Chhattisgarh Government</i>	<i>1,00,00,000/-</i>
02	<i>Principal Secretary, State Health Department Chhattisgarh Government</i>	<i>1,00,00,000/-</i>
03	<i>M/s TRN Energy Private Limited, Nawapara Raigarh</i>	<i>1,82,40,600/-</i>
04	<i>M/s Mahavir Energy and coal beneficiation Limited</i>	<i>1,42,90,000/-</i>
05	<i>M/s Hindalco Industries Limited Coal Mine</i>	<i>2,09,40,000/-</i>
06	<i>M/s Ambuja Cement Limited Coal Mine (GP IV/8)</i>	<i>75,90,000/-</i>
07	<i>M/s Jindal Steel & Power Limited, Dongramau, Tamnar</i>	<i>11,70,000/-</i>
08	<i>M/s Chhattisgarh State Power Generation Company Limited</i>	<i>75,90,000/-</i>
09.	<i>M/s Jindal Power Ltd, Tamnar</i>	<i>48,30,000/-</i>

Environmental Compensation against TRN Energy PVT. LTD. have been calculated for damage to property of individuals. The details are as under-

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	<i>Sh. Ghurauram Rathia Nawapara</i>	<i>381/01</i>	<i>0.076</i>	<i>7030</i>

02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895	408017.5 allowed only Rs.1,11,000/- as claimed 175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

8. Final compliance status on 30.11.2021 and recommendations of the Committee are reproduced below:-

“FINAL COMPLIANCE REVIEW STATUS AS ON 30-11-2021

1. Short-term measures

1.1 Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling.

As per compliance report submitted on 07.04.2021 and accepted by Hon'ble NGT in its order dated 24.06.2021 Two SECL mines (IV/2,3) and one JPL mine (IV/1) only are accepting fly ash for disposal in OB dump. Other coal mines in Tamnar and Gharghoda area are not accepting fly ash for disposal in OB dump.

Although Environmental compensation has been assessed but for future they are not exonerated and shall be liable to assessment of Environment Compensation and other legal actions.

CEA vide its letter dated 14.02.2020 has informed about declaration of abandoned mines on recommendation of task force. The list includes 24 abandoned OC mines of Chhattisgarh to be used for filling of fly ash generated from TPP. **The committee has suggested to Chairman, Chhattisgarh Environment Conservation Board for constitution of State Level Committee to decide the mode and quantity of fly ash to be disposed in working/ abandoned mines/quarries in the State. The same committee may also look after the fly ash disposal issues in Raigarh also on priority.**

Oversight committee in its meeting dated 27.11.2020 has decided to write Chairman, CECB for constitution of State level Committee for permitting about utilization of fly ash for reclamation of low lying areas and in stowing of abandoned mines/queries only after ensuring the implementation of guidelines prepared by CPCB as per MoEF&CC notification No.SO 763(E) dated 14-09-1999. The decision was taken for giving effect to observations made by Hon'ble NGT in para 6 of their order 20.11.2020.

*“Further, the applicant has given suggestions by way of written submission filed on 18.11.2020, inter-alia to the effect **that contaminated sites be seen, fly ash dumping in low-lying areas be ensured and such dumping should not be in unscientific manner. The legacy fly ash dumps be remediated.** Air and land pollution due to fire in the coal mines be remedied. Coal transportation by trucks must be done on scientific basis 13 and transportation by conveyor belts be preferred. Road maintenance be improved. Continuous Ambient Air Quality Monitoring Station (CAAQMS) be installed. Steps be taken for recharge of the ground water. Water supply to the concerned villages be provided by pipes.”*

In this context Nodal Officer of the oversight committee has written a letter to Chairman, CECB on 26.02.2021(RD/BPL/NGT OA-104/2018/202) for constitution of State level committee for utilization of fly ash for reclamation of low lying area, and in stowing of abandoned mines/quarries.

In this context, Member Secretary, CG Environment Conservation Board, Raipur, apprised us that State level committee has been constituted a long back and now has been reconstituted on 24.01.2019. This reconstituted committee is termed as monitoring committee constituted by Chhattisgarh Government to monitor the utilization of Fly ash in accordance to MoEF&CC notification SO 2804 (E) dated 03.11.2009. This committee is also responsible to ensure implementation of clauses 7, 8(i) & 8 (ii) of MoEF&CC notification SO 2804 (E) dated 03.11.2009 which reads as:-

“(7) No agency, person or organization shall within a radius of hundred kilometers of a coal or lignite based thermal power plant under take or approve or allow reclamation and compaction of low-lying areas with soil; only fly ash shall be used for compaction and reclamation and they shall also ensure that such reclamation and compaction is done in accordance with

the specifications and guidelines laid down by the authorities mentioned in sub-paragraph (1) of paragraph 3.

(8)(i) No person or agency shall within fifty kilometers (by road) from coal or lignite based thermal power plants, undertake or approve stowing of mine without using at least 25% of fly ash on weight to weight basis, of die total stowing materials used and this shall be done under the guidance of the Director General of Mines Safety (DGMS);

Provided that such thermal power stations shall facilitate the availability of required quality and quantity of fly ash as may be decided by the expert committee referred in subparagraph (10) for this purpose.

(ii) No person or agency shall within fifty kilometers (by road) from coal of lignite based thermal power plants, undertake or approve without using at least 25% of fly ash on volume to volume basis of the total materials used for external dump of overburden and same percentage in upper benches of back filling of opencast mines and this shall be done under die guidance of the Director General of Mines Safety (DGMS);

Provided that such thermal power stations shall facilitate die availability of required quality and quantity of fly ash as may be decided by the expert committee referred in subparagraph (10) for this purpose.”

When there is already one statutory committee for monitoring and facilitating implementation of notification at the respective State Government level, there appears no need for constitution of another committee for the same work in the same field,

*CECB vide its letter number 318 dated 10.05.2021 has made allotment of fly ash disposal in void of Domnara OC mine (Abandoned) of Raigarh but no progress observed on ground, Only one abandoned mine is there for filling of fly ash but the same has been allotted to five companies situated in different area and with different quantities. This allotment has been done in complete violation of “GUIDELINES OF CIL OFFERING MINES VOIDS FOR FLY ASH DISPOSAL The guidelines is a complete code and following that only mines was required to be allotted and compliance should have been made. **CECB should have asked Coal India Ltd to follow their own guidelines from inception of allotment of Mine void till disposal of fly ash and after closure of the site till reclamation.***

1.2 Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously

monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.

District collector, Raigarh has issued letter to concern departments for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly ash. During visit committee has observed restriction on fly ash disposal in low lying areas particularly in agricultural fields of the villages.

Hon'ble NGT in its order dated 20.11.2020 directed that contaminated sites be seen, fly ash dumping in low-lying areas be ensured and such dumping should not be in unscientific manner. The legacy fly ash dumps be remediated. In this context Nodal Officer of the oversight committee has written a letter to Chairman, CECB on 26.02.2021 (RD/BPL/NGT OA-104/2018/202) for constitution of State level committee for utilization of fly ash for reclamation of low lying area, and in stowing of abandoned mines/quarries.

The committee has also directed Regional officer CECB for providing list of locations where fly ash have been disposed unscientifically and creating threat to environment and agricultural fields. In accordance with list provided by CECB, committee has visited Gharghoda area on 25.08.2021. Unscientific disposal of fly ash in low lying areas of Gharghoda is one the major issues taken in the case. The committee has visited few sites of fly ash dumping where proper strengthening and compaction of fly ash has not been ensured by M/s TRN Energy Pvt Limited resulting flow of fly ash in to adjoining fields and drains leading to River. The location of fly ash dumping exits in village Bhengari, Nawapara, Tenda and Kantagdeeh. The committee has visited newly constructed ash dyke near the power plant in Nawapara and observed flow of water along with side of ash dyke leading in the fields of farmers. The committee has also witnessed the breaching and damage, then accordingly instructed the villagers & farmers to submit damage claim application in the office of Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh. The format of application for submitting damage claim has also been provided to villagers/farmers with request to be present during hearing at Bilaspur. M/s TRN Energy Private Limited (2x300MW) thermal power plant is located in village Bhengari, Nawapara (Tenda), Gharghoda, Raigarh. The plant started its commercial production in 2016 with an average generation of fly ash 4000 MT per day. The thermal power has generated approximately

2879126 MT fly ash during January 2016 to March 2021, out of which 58% (16,65,007 MT) has been disposed in low lying area of village Chote Gumda, Bade Gumda, Nawapara, Tenda and Baansmuda. As per detail submitted by the TPP the area used for disposal of fly ash is approximately 17.378 Hectare.

TRN power has created an ash dump as non-compliance of EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mud wall leading to fly ash flowing into adjoining field even situation to fly ash in to neighboring habitants.

On field visit on 24-25.08.2021 we have seen that by the side of State High way unscientific fly ash dump has been found , also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Another fly ash dump adjoining to Forest and nalah in personal land of some villager have been seen, due to cracks and land break / erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda .The top of Dump was at least 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoining field. To prevent the same no remedial measures has been taken by the PP. On road side flow we could see the flowing of fly ash in heavy quantity. A pretty big area has been covered under flowing of fly ash from this Dump.

Representative from TRN admits all these OB dumps and contended that after obtaining the permission from land owner and Gram Panchayat, Fly ash dump have been made. Although they brought some papers and made attempt to show that they have not violated the Environmental conditions. But could not produce permission / consent of State Pollution Control Board. The thermal power plant has also submitted copy of study report conducted in 2018 by ISM Dhanbad which recommends about no metal contamination in ground water due to leaching from fly ash disposed in low lying area.

Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines give liberty to loose disposal of fly ash that's too above ground level.

The committee has also visited the Sites of Ash Disposal by M/s Mahaveer Energy & Coal Benefication Limited, Biomass based 12 MW power plant located in village Bhengari. The industry generates fly ash by burning of rice husk with coal and use to dump it unscientifically at two locations in village Bhengari. The committee has visited dumping sites on 25th August 2021 and found fly ash dumping in Bhengari village and also in the plant premises. The unscientific disposal of fly ash leads air borne during summer season and washed out during rainy season leading towards surface water body.

Although Environmental compensation has assessed but that will not exonerate these companies from their illegal activities. We relying on judgment rendered by Hon'ble the SUPREME COURT OF INDIA in the matter NIDHI KAIM Vs. STATE OF MADHYA PRADESH, Civil Appeal No. 1727 of 2016, Decided on : 13-02-2017 in which Hon'ble SC has observed that :-

“There is a saying – when wealth is lost, nothing is lost; when health is lost, something is lost; but when character is lost, everything is lost. This is attributed to Billy Graham, an American clergyman, born on 7.1.1918. One cannot be certain, about the above attribution, because the same lesson has been taught in India, since time immemorial, by parents and teachers. The issue in hand, has an infinitely vast dimension. If we were to keep in mind immediate social or societal gains, the perspective of consideration would be different. The submission canvassed, needs to be considered in the proper perspective. We shall venture to derive home the point by an illustration. We may well not have won our freedom, if freedom fighters had not languished in jails ... and if valuable lives had not been sacrificed. Depending on the situation, even civil liberty or life itself, may be too trivial a sacrifice, when national interest is involved. It all depends on the desired goal. The preamble of the Indian Constitution rests on the foundation of governance, on the touchstone of justice. The basic fundamental right, of equality before law and equal protection of the laws, is extended to citizens and noncitizens alike, through Article 14 of the Constitution, on the fountainhead of fairness. The actions of the appellants, are founded on unacceptable behavior, and in complete breach of the rule of law. Their actions, constitute acts of deceit, invading into a righteous social order. National character, in our considered view, cannot be sacrificed for benefits – individual or societal. If, we desire to build

a nation, on the touchstone of ethics and character, and if our determined goal is to build a nation where only the rule of law prevails, then we cannot accept the claim of the appellants, for the suggested societal gains. Viewed in the aforesaid perspective, we have no difficulty whatsoever, in concluding, in favour of the rule of law.”

We recommend that M/s TRN Energy Private Limited and M/s Mahaveer Energy & Coal Benefication Limited shall remove the fly ash dump as seen by the committee during their field visit within 4 months else those dumps shall be removed on the cost of those companies ,by State PCB and removed mataerial shall be given to the concerned company for proper disposal as per law.

- 1.3. Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks.**

Representative from JPL present in stake holders meeting has informed that 44,25,66 MT coal was transported in 2019-2020 & 40,24,274 in 2020-2021 through conveyor belt to JPL. The quantity provided is about 70 % of total coal mined from GPIV/2&3, however coal quantity received for GP IV/2&3 is only satisfies its 25% requirement. Rest of the requirement is met from other coal mines of Chhattisgarh and Orissa. **State PCB shall verify correctness of the declaration by examining companies coal transportation records.**

- 1.4 Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pretreatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms. PHED should do the analysis (major cations/anions/trace elements) of the inlet and outlet sample of the Defluoridation plant installed in the region.**

PHED Raigarh has informed that water testing laboratories are functional at Gharghoda and Raigarh for testing of drinking water quality of the area. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also

in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tape water in village and ensure quality of water in coordination with PHED Raigarh.

In order to ensure and verify the adequate quality of drinking water supply in Village Kondkhel, the committee has also visited Kondkhel village on 24.08.2021 along with applicant, representative of PHED and M/s Hindalco Limited. In the visit, water availability in hand pump as well as taped water supply was found in order. More over National Environmental Engineering Research Institute (NEERI) Nagpur set up network of observation wells in Kondkhel village during 01-02 August 2021. These observation wells network consisting of India Mark II hand pump that are used to measure the ground water level. The ground water level from observation wells network was obtained using Electric Contact Gauze. The ground water level is obtained with respect to below ground level (BGL). The ground water extraction through hand pumps is used for domestic purposes only. The depths to ground water level (BGL-m) in the different observation wells varied between 5.24 m to 14.81 m during first week of August 2021.

Installation of Piezometers and monitoring: All the Coal Mine operators in the region need to install the Piezo meters as per the EC conditions. The installation need to be based on scientific lines and should take into account the depth up to which the mining is envisaged. Monthly monitoring of ground water level should be done by the mine operators.

1.5 *Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information.*

The committee during its field visits has observed installation of CCTV in coal mines and found its satisfactory operation its connectivity with CPCB and CECB should be made. M/s CSPGCL mines have installed two CAAQMS as per instruction and its connectivity with CPCB and CECB is in progress. CECB has also placed order for purchase and installation three CAAQMS in the area but as on 30.11.2021 no station was found operational.

M/s CSPGCL mine has installed two CAAQMS and remaining is not complied. May its installation takes time but on this excuse concerned proponents are not entitled for excuse. CECB to issue directions to concerned

proponents for installation of CAAQMS and for CCTV connectivity with CPCB and CECB.

1.6 Proper repairing and maintenance of roads outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

Although Environmental Penalty / Fine has been assessed on Principal Secretary, PWD State of CG but he is not exonerated from complying earlier directions. He should comply those directions else shall be liable again for Penalty/Fine and other legal coercive measures.

1.7 Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case.

Although Environmental Penalty / Fine has been assessed on Principal Secretary, Health, State of CG but he is not exonerated from complying earlier directions. He should comply those directions else shall be liable again for Penalty/Fine and other legal coercive measures.

1.8 Strict vigilance by MOEFCC for green belt development compliance as per EC conditions.

Yes. On Papers although Project Proponents have tried to show that they are doing the plantation work, but there is distinction between plantation and Green belt development therefore as per mining plan coal mines shall develop green belt and on OB dumps shall grow prescribed species of tree and as per CPCB guide lines 2019 TPP shall develop green belt.

1.9 We also recommend that no further conversion of UG mines to Open Cast mines be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major 4 noncompliance in pollution control and social cost (rehabilitation).

Nodal officer of the committee has informed accordingly to Member Secretary (IA-Coal) Ministry of Environment Forests &CC vide letter number RD/BPL/NGT OA 104/2018/72 dated 18th September 2020. However Honorable NGT Order dated 27-02-2020 in Para 6 have observed; We are of the view that since serious deficiencies have been found and there is potential for damage to the environment as observed in the report, the 'Precautionary' and 'Sustainable Development' principles require that any further expansion or new projects in the area should be allowed after thorough evaluation only

and mechanism for remedial measures should be in place, including oversight of measures for health mitigation.

2.0 Long-term measures

2.1 Commissioning a detailed and comprehensive environmental load carrying capacity study to be carried out by a reputed environmental research institute over a 24 month period. Mode of commissioning of this study may please be decided by the Hon'ble NGT and necessary directions may please be issued.

In the meeting of the oversight committee held on 16.10.2020, CPCB has advised CECB to include the project cost in EC fund sponsored project. CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh. The Technical and Commercial proposal was submitted by NEERI, Nagpur which is still under consideration in CECB.

2.1.1 The study must cover dimensions of air pollution (especially PM2.5), water pollution and ground and surface water depletion, soil contamination, forest and biodiversity loss, and social and health impacts.

Action by CECB to ensure its incorporation during finalization of proposal submitted by NEERI, Nagpur for carrying capacity study.

2.1.2 Moreover, given the geography of the region, the study must assess the carrying capacity separately for two different sub regions: the northern Tamnar (coal mining related) block and Gharghoda block. Moreover, since Chhal open cast mine located in southern Dharamjaigarh block is located on the bank of Mand River and therefore in an eco-sensitive zone, a baseline study of this region may also be carried out. The southern Tamnar subregion has already been studied for environmental load carrying capacity by IIT Kharagpur (report submitted to CECB in 2018) and it has already recommended strict regulation of any further industrial development in particular parts of the sub-region through a high-level committee.

Action by CECB to ensure its incorporation during finalization of proposal submitted by NEERI, Nagpur for carrying capacity study.

2.1.3 CECB shall ensure that within 4 month the studied for environmental load carrying capacity pending with it shall be allotted according to legal process and allottee should ensure that after allotment study should be

completed and report submitted within 24 months. Both of them should keep in mind that default if caused then defaulter shall be liable under legal consequences.

- 2.2 To reduce the pollution and other impacts caused by road transport of coal and other minerals, directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail or closed conveyer belt only.**

IRCON International Limited, that 44 Km Railway line work from Kharsia – Gharghoda – Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. Rail line work from Karichhapar – Kurumkela – Dharamjaygarh will be completed by December 2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 03 coal siding and made 01 siding operational, 02 more siding will be made operational by December 2021. As per data received from major mining company of the area i.e. SECL, it is reported that 35% coal transport increase has been observed in comparison to last financial year 2019-2020. It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2021.

- 2.3 Condition of greenbelt development may be incorporated at TOR stage of EC application to ensure that greenbelt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by MOEFCC. Further, while granting TOR, EAC should specify the location of the greenbelt to provide buffer between coal mine and human settlements, and specify a sufficient width of the greenbelt for the same.**

Copy of Hon'ble NGT order has been provided to MoEF&CC through its representative of the committee.

- 2.4 Ministry of Coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and back-filling as per fly ash notification of 2009.**

In this context, Member Secretary, CG Environment Conservation Board, Raipur, apprised us that State level committee has been constituted a long back and now has been reconstituted on 24.01.2019. This reconstituted committee is termed as monitoring committee constituted by Chhattisgarh

Government to monitor the utilization of Fly ash in accordance to MoEF&CC notification SO 2804 (E) dated 03.11.2009.

The committee seems to be responsible for obtaining specification of quality of fly ash from expert committee referred in sub paragraph (10) for this purpose. As per sub paragraph (10) ministry of coal for this purpose shall constitute an expert committee comprising of representative from fly ash unit, Department of Science and Technology, Ministry of Science and Technology, Director General of Mines (DGMS), Central Mine Planning and Design Institute Limited (CMPDIL), Ministry of Environment Forests & CC, Ministry of Power, Ministry of Mines and Central Institute of Mining and Fuel research (CIMFR).

Hon'ble NGT in its order dated 24.06.2021 on point no 6 has considered the field observations made in report dated 17.03.2021 about violation found on the JPL, JSPL, Hindalco Industries Limited, Mahaveer Energy and coal Benefication and M/s Ambuja Cement and M/s CSPGCL coal mines. The committee has addressed all issues during its site visit on 24th and 25th August 2021 and concerns were given opportunity of hearing on 14th and 15th September 2021.

1. The following observations made in the report dated 17.03.2021 has been found resolved. Fly ash dumping with in GP IV/01, outside mine void
2. Fly ash dumping with in GP IV/02 & 03, outside mine void
3. Leakage of fly ash slurry from JPL ash dyke
4. Fire in coal mine/ coal dump Gare Pelma IV/02&03
5. Discharge of untreated waste water from M/s Hindalco Industries Limited Coal mine
6. Inadequate quality of drinking water supply to Kondkhel village
7. Making abandoned mines available for disposal of fly ash

FOLLOWING ARE THE MAJOR RECOMMENDATION TO MEET OUT THE PROBLEM OF POLLUTION DUE TO TRANSPORTATION AND FLY ASH DISPOSAL:-

1. **Coal brought from outside CG to Tamnar and Gharghoda area by TPP should be carried by train upto nearest Railway siding, may it be booked from any Rly station. From Rly siding to TPP coal may be carried through mechanically operated closed Goods Vehicle or through manual operated Tarpoline covered Goods vehicle. If any exigency arises State PCB may for limited period relax this condition.**

2. **Coal bought from inside CG to Tamnar and Gharghoda area by TPP should be carried by train upto nearest Railway siding if train connectivity is available. From Rly siding to TPP coal may be carried through mechanically operated closed Goods Vehicle or through manual operated Tarpoline covered Goods vehicle. If train connectivity is not available coal may be carried through mechanically operated closed Goods Vehicle or through manual operated**
3. **Tarpoline covered Goods vehicle. If any exigency arises State PCB may for limited period relax this condition Fly ash is a byproduct of TTP and produced as a result of Coal/lignite Burning. Fly ash is hazardous to environment. For its disposal MoEF has from time to time issued notifications and as per notification 2009 one of the mode is stowing of mines using at least 25% of fly ash on weight to weight basis of the total stoving material used and 25% of fly ash on volume to volume basis on the total material used for external dump of over burden and same percentage in upper benches of back filling of open cast mines, this utilization is to be done under the direction of DGMS.**
4. **Coal mines although are legally and morally bound to accept minimum above quantity of fly ash from TPP. To achieve this target it is recommended that when coal is sold by the coal company to TPP there should be a condition in the agreement to sell that at least 25 % Fly Ash of the coal sold, should be accepted by the coal company (Seller) from TPP (purchaser) failing which coal company shall be liable for civil action and other legal measures.**
5. **Before approval of mining plan by the approving authority, approving authority should ensure incorporation of fly ash disposal as required under notification 2009 clause 8(i) and 8(ii).**
6. **Till carrying capacity report comes, after taking due care to environment, authorities may grant mines, lease, consent permissions, EC etc. After receipt of the carrying capacity report, the same should also be taken as Governing factor.”**

Analysis, Findings and Directions

9. We have given due consideration to the report. The Committee has comprehensively gone into the matter in the light of earlier proceedings. It has recorded compliance status of earlier directions in respect of short term and long-term measures and made recommendations to remedy the situation. It has also assessed compensation for the past violations. It has been then concluded that payment of compensation does not exonerate

the industrial entities and the authorities from remedying the situation for future.

10. As regards compensation, we are broadly in agreement with the violations found and recommendations for compliance except that compensation is not adequate and recommendation for carrying capacity study needs to be expedited.

Compensation liability

11. As noted above, the Committee has held by two Departments of the State (PWD and Health) and seven industrial units responsible for violations, after considering their viewpoint. We agree with the findings of violations. Plea of lack of budget by the PWD to prevent dust pollution is untenable as clean environment is fundamental right under Article 21. Sustainable Development, Precautionary principle and polluter pays principles are to be statutory enforced by this Tribunal under sections 15 and 20 of the NGT Act. If budget is not available, the same has to be collected from the concerned polluters or otherwise arranged by the State and for lack of budget, environment and public health cannot be damaged. This is also the crux of the public trust doctrine which sustains good governance. Once pollution is being caused to the detriment of public health and environment, the State can be held accountable for its failure to take necessary steps. Thus, PWD has rightly been held liable to pay compensation for continuing damage to the public health and environment by failure to maintain/construct road in the area resulting in air pollution. Similarly, if the public health department is not providing health facilities to people affected by pollution, the Health department has to be held accountable as held by the Committee. TRN has been held responsible for unscientifically handling/storing flyash, adversely affecting

agricultural lands. Damage to dyke has been found. In the case of Mahavir, dumping of flyash in low lying area has been found contrary to guidelines and specifications. The flyash is becoming airborne and flowing in drain, contaminating groundwater. Ash dump is against EC conditions and applicable SOP. CSPGCL has been found dumping flyash on both sides of road and dumping sludge waste on and drain, to the detriment of environment and public health. Ambuja has failed to provide garland drain and found dumping OB on both sides of public road. Ambuja has created OB dump and not developed necessary greenbelt. Gare Palma has dumped flyash and OB in drain meeting river Kelo. Jindal has been held liable for violations of flyash dyke which was later remedied.

12. In view of deficiencies found, quantum of compensation assessed is inadequate. It is based only on number of days of violation, without reference to cost of remediation or financial capacity of the PPs as required inter-alia in *M. C. Mehta & Anr. v. Union of India*¹, *Sterlite Industries (India) Ltd. v. Union of India*² and *Goel Ganga Developers India Pvt. Ltd. v UOI*³. Deterrent element has also to be included so that causing of pollution is not profitable. The compensation has been assessed only for the days of violation was found during inspection and not for the past violations. The formula evolved by CPCB may be a floor level determination of compensation but the same cannot be universal for all situations and needs to be supplemented by considering the cost of remediation and financial capacity of the PPs as required in terms of law laid down by the Hon'ble Supreme Court which is binding on all authorities. Since this deficiency in compensation assessment is happening repeatedly, it will be

¹ (1987) 1 SCC 395

² (2013) 4 SCC 575

³ (2018) 18 SCC 257

appropriate that CPCB issues revised guidelines to all the State PCBs/PCCs on this subject.

13. I.A. No. 40/2022 has been filed on behalf of M/s Ambuja Cement Limited objecting to the compensation assessed by the Oversight Committee. We do not find any merit therein. It is submitted that failure to dispose of fly ash is for want of approval by the DGMS for use of fly ash in OB dump, void and back filling. The joint Committee has not appreciated that there is increased demand for fly ash in view of letter dated 22.09.2021 issued by the Ministry of Power and para 13 of the Notification dated 31.12.2021 requiring the TPPs to undertake backfilling of ash in mines. Since no abundant mines are available to the industry, it is not accountable for not utilizing the fly ash. We are unable to accept the objection. The Committee has found failure to develop garland drain, as required and unscientific storing and dumping of OB on sides of public road which certainly is a ground for holding the unit accountable on polluter pays principle. As regards letter of the Ministry of Power dated 22.09.2021, while dealing with an identical issue vide order dated 18.01.2022 in OA No. 164/2018, *Ashwani Kumar Dubey vs. Union of India & Ors.*, this Tribunal has held that the said letter is not to be enforced, being against the spirit of Notification dated 31.12.2021, obstructing speedy utilization of fly ash. The Tribunal also held that Notification dated 31.12.2021 extending time limit for disposal of fly ash could not be interpreted to mean that there is no accountability for scientific handling of such fly ash till its disposal. Operative part of the order is reproduced below:-

“1to16....xxx.....xxx.....xxx

17. *With regard to past violations generally, we leave the issue of compensation determination to the joint Committees of CPCB, State*



PCB and District Magistrate within next three months, following due process. Compensation determination must be based on principles laid down inter alia in M.C.Mehta, (1987) 1 SCC 395, Sterlite (2013) 4 SCC 575 and Goel Ganga (2018) 18 SCC 257, having regard to the period of violation and financial capacity of the unit. Mere days of violations are not conclusive without reference to financial capacity of the units. Directions already issued on the subject will be treated as final as far as this Tribunal is concerned, **subject to final orders of the Hon'ble Supreme Court in appeals filed by the concerned units, if any.**

.....

19. The TPPs have referred to notification dated 31.12.2021 extending timeline for utilisation of legacy fly ash for 10 years, subject to scientific management and subject to 100% utilization on average of three years and not less than 80% in any given year. We are not called upon to express any opinion about the validity of Notification dated 31.12.2021. It may appear to be a retrograde step in the face of quantity of fly ash noted earlier and continuing damage to the environment and public health unless the notification is properly understood and interpreted so as to remedy the situation. **The object of the notification is not to nullify the mandate of the Air Act or standards of air quality or other norms but to provide further opportunity beyond the earlier timelines, consistent with the mandate of complying with laid down environmental norms which are part of right to life. Violation of laid down air quality and other norms cannot and is not sought to be condoned. Nor there is any bar against remedying deteriorated environment of polluted industrial areas, in the light of recommendations based on ground verification. Thus, issue of violation of norms due to unscientific management and handling of fly ash remains including action against persons responsible for pollution and accidents, apart from issue of compliance of specific conditions of notification dated 31.12.2021 remains.**

20. **As noted earlier, situation caused by failure of the TPPs to manage fly ash scientifically and to utilize the same within reasonable time is highly detrimental to public health and emergency measures in Mission Mode are required. Even the Notification dated 31.12.2021 recognizes the alarming situations which is clear from the text of the Notification itself.....**

21. **In the light of above discussion, it is patent that remedial measures are required in terms of recommendations set out in para 15 above in respect of individual TPPs or other projects as well as general issues applicable to all the TPPs such as timely installation of air pollution control and monitoring devices, timely utilisation and disposal of fly ash, scientific designing of fly ash dykes and safety norms, addressing public health issues, steps for restoration of deteriorated environment by bringing down CEPI scores in the entire area, restoration of Rihand Reservoir and other damaged/degraded areas, providing arrangement for public health facilities, including water supply and by coordinated and concerted efforts and high level monitoring. The PP are to be accountable**

for past violations and are under obligation to remedy the violations and follow the norms for future. The regulators are to enforce the same and higher authorities are to oversee. Accordingly, following direction are issued:

- i. We direct constitution of a fly ash management and utilization Mission to be jointly headed by the Secretaries, MoEF&CC, Coal and Power, GoI and Chief Secretaries of UP and MP. The Secretary, MoEF&CC will be the nodal agency for coordination and compliance. The Mission will coordinate and monitor issues relating to handling and disposal of flyash as well as all associated issues in the light of above discussion. It may hold its first meeting within one month to take stock of the situation and to prepare action plan in the light of recommendations of Joint Committees quoted earlier in para 15 above in respect of individual plants as well as road map generally. Thereafter, it may meet atleast once in a month for one year to review the progress. The resolutions of the Mission and quarterly progress may be placed on the website of MoEF&CC for information of the stake holders and inhabitants in the area. The Mission will be free to interact with the concerned Government Departments/ Expert institutions/ individuals/other stakeholders. The Mission may in its first meeting require voluntary financial contribution by all the projects in proportion of the financial capacity of the projects out of CSR funds or otherwise. The contribution, alongwith compensation which may be collected may be credited to a separate environment restoration account for restoration of environment and relief to the victims of damage to the environment in such manner as may be found necessary by the Mission. Any victim or aggrieved party will be free to approach the Mission for providing such relief. The Mission may also consider the safeguards laid down in the Notification dated 31.12.2021, particularly for safety audits of the ash dykes which should be conducted particularly for structural stability, as far as possible within six months. Advisory issued by the Ministry of Power dated 22.9.2021 will not be enforced being against the spirit of notification dated 31.12.2021 and obstructing much needed speedy utilisation/disposal of legacy flyash. The Mission may evolve mechanism for interaction with stake holders, including associations of brick kiln owners. Guidelines be also issued for siting, design and engineering standards for the location, disposal, maintenance and regulation of Ash Ponds as breach of a fly ash ponds result in great disaster. Public health and risk impact assessment in the areas of operation of TPPs and generators of fly ash may be got conducted. The Mission may also monitor scientific management and utilization of fly ash by power projects outside Singrauli and Sonebhadra, in coordination with Chief Secretaries of concerned States and adopting safety measures for ash dykes, installing devices to control air pollution, (including FGDs, OCEMS) in a time bound**

manner and restoration of environment and public health. The Mission may also consider use of beneficiated coal. It may in particular consider on-site and off-site crisis management plans with regard to fly ash ponds and dykes. As noted earlier, legacy fly ash is 1670.602 Million Tonnes as on 31.12.2021 and data of ash generation and utilization of legacy fly ash is as follows:

“Summary of Ash Generation and Utilization during year 2020-21

No. of Thermal Power Stations:	191
Capacity (MW):	2,13,030 MW
Coal consumed :	672.130 Million Tonnes
Fly Ash Generation:	222.789 Million Tonnes
Fly Ash Utilization:	205.098 Million Tonnes
Percentage Utilization:	92.06%
Legacy flyash:	1670.602 Million Tonnes

The Committee of Secretaries, in coordination with PPs and statutory regulators, may draw a roadmap for utilization and disposal of entire legacy fly ash for Sonbhadra and Singrauli areas as well as for all the Power Plants located in clusters or standalone with tagging the sources to utilize fly ash on voluntary and compulsion mode for which required mechanism be laid down.

- ii. With regard to past violations, the PPs remain liable and the Joint Committee of CPCB, State PCB and jurisdictional District Magistrates may determine compensation following due process, on the principles laid down inter alia in *M.C. Mehta, (1987) 1 SCC 395, Sterlite (2013) 4 SCC 575 and Goel Ganga (2018) 18 SCC 257*, having regard to the period of violation and financial capacity of the unit. The PPs may take remedial measures as per recommendations of the Committee and as per law, failing with coercive measures for continuing or future violations be taken by concerned authorities.
- iii. Statutory regulators may take action in terms of need for compliances in the light of recommendations with regard to individual Plants as well as generally so as to require the concerned PPs to comply, failing which coercive measures be taken by the statutory regulators in accordance with law.
- iv. In respect of incident dated 10.04.2020, compensation paid to heirs of the deceased at the rate of Rs. 10 lakhs per death is increased to Rs. 15 lakhs on principles laid down inter alia in *Sarla Verma (2009) 6 SCC 121 and Uphaar Cinema (2011) 14 SCC 481*. We direct the remaining amount to be paid within one month. This order will not debar the heirs of the victims to claim higher compensation by approaching appropriate forum. If the salaries to persons appointed as compensation to the victims are below minimum wages, the PP may ensure compliance of law on the subject which may be also looked into by the concerned Labour Departments of the State of UP and MP. The statutory

regulators may take further remedial action in terms of recommendations of the Committee in OA 148/2020, quoted earlier for restoration of environment and preventing such incidents.

- v. With regard to breach of Rihand Reservoir also, further remedial measures be taken in terms of recommendations on the subject, quoted in para 15 above.”*

14. Similarly, we do not find any merit in the reply filed on behalf of Mahavir Energy & Coal Benefication Limited, against proposed compensation. It is submitted that notification issued by the MoEF&CC under Section 5 of the Environment (Protection) Act, 1986 for utilization of fly ash from coal or lignite based Thermal Power Plant does not apply to the said industry as the said industry is not using coal or lignite but biomass.

15. This stand cannot be accepted. As seen earlier, Mahavir has been found dumping flyash unscientifically in low areas against specifications and guidelines which are becoming airborne causing pollution and flowing in drain contaminating ground water. Ash dump is in violation of SOP and EC conditions. Thus, whatever be the fuel used and *dehors* the notification of the MoEF&CC referred to by the applicant, scientific handling and disposal of fly ash is mandate of 'Precautionary' principle of Environmental Law for protection of environment. In view of specific violations causing air and water pollution in violation of EC conditions, the stand of the industry is untenable and is rejected.

16. Having regard to overall factual situation discussed above, while directing compensation assessed by the Committee be deposited as an interim compensation with the State PCB within two months, for restoration of the environment, we direct the State PCB to put M/s TRN Energy Private Limited, Nawapara Raigarh, M/s Hindalco Industries

Limited Coal Mine, M/s Jindal Steel & Power Limited, Dongramau, Tamnar, M/s Chhattisgarh State Power Generation Company Limited and M/s Jindal Power Ltd., Tamnar, PWD and Health Departments through the Chief Secretary, Chhattisgarh to notice of these proceedings with view to provide them opportunity to show cause why higher compensation be not determined, having regard to the said violations, having regard to their financial capacity. M/s Ambuja Cement Limited Coal Mine (GP IV/8) and M/s Mahavir Energy and Coal beneficiation Limited already represented in today's proceedings are put to notice through appearing counsel. The said entities may file their response, if any, within one month time from date of receipt of notice. The individuals who have been held entitled to compensation may be paid compensation out of the amount deposited. The State of Chhattisgarh and other entities may remedy the violations in terms of the observation of the Committee and file an affidavit of compliance failing which they will be held liable for further compensation.

Further recommendations about remedial measures

17. Further, the recommendation of the Committee in respect of short term and long-term measures need to be complied with by the industries in question as well as by the State of Chhattisgarh. This may be overseen by the joint Committee if any continuing violations founds, the violators will be held accountable by way of prosecution and liable to pay compensation.

Carrying capacity study

18. With regard to carrying capacity study, we are of the view that observation in para 2.1.3 of the Committee of requiring such study within 24 months cannot be accepted. The data is already available on the basis of which carrying capacity can be studied within three months. This may



be got done by CPCB and State PCB with the assistance of any other experts/ agencies. Funds available with CPCB/State PCB may be utilised, subject to further orders.

Conclusion

19. Above resume of discussion shows that there is continued damage to the environment and public health by indiscriminate storing, transportation and disposal of fly ash in District Raigarh in Chhattisgarh. Remedial action has been duly identified in form of short-term and long-term measures but the action so far taken is not adequate. Absence of health facilities for the victims is unfortunate and needs to be remedied. Absence of suitable roads in the area added to the problem in the form of continued air pollution and even road accidents. This needs to be remedied by the concerned departments, including PWD and health Departments of the State. The industrial units have failed to follow the laid down environmental norms as per EC/Consent conditions which include requirement to comply with the Water and Air Acts. Wherever CCTV cameras and CAAQMS have still not been installed, the same need to be complied.

Directions

20. To sum up, our directions are:

- (a) The State of Chhattisgarh and concerned Industrial units may deposit assessed compensation as interim compensation within two months, to be utilised for restoration of the environment, as per plan to be got prepared and executed by the Committee.
- (b) Remedial measures be taken by the CPCB, State PCB, State of Chhattisgarh and the concerned Industrial units and the



authorities in the light of report of the Committee and observations of this Tribunal, hereinabove.

- (c) The State PCB may put the concerned industrial units to notice of these proceedings other than those who have put in appearance in the light of observations in Para 16 above, to enable the State and such units to file their response, if any.
- (d) In the light of order of this Tribunal dated 18.01.2022 in OA No. 164/2018, *Ashwani Kumar Dubey vs. Union of India & Ors.* quoted above in Para 13, compensation may be redetermined, subject to final orders of the Hon'ble Supreme Court in Appeal, if any, filed by the affected parties.
- (e) Having regard to aggravated adverse impact of the fly ash during the summer season, the State PCB may take appropriate remedial safeguards by issuing appropriate directions to the Project Proponents in question on the subject. For suppression of fly ash dust emissions, sprinkling be ensured utilising treated water and refraining from use of ground water or fresh water in view of already depleted level of groundwater.
- (f) In view of order of this Tribunal in OA No. 164/2018, *Ashwani Kumar Dubey vs. Union of India & Ors.*, quoted earlier, TPPs and other projects have to install requisite devices, take steps for timely utilization of disposal of fly ash, scientific designing of fly ash dykes, address issues relating to public health and restoration of deteriorated environment, providing water supply to affected persons and higher-level monitoring by the statutory regulators. Fly Ash Management and Utilization Mission constituted by the Tribunal headed by the Secretary, MoEF&CC may also look into the issues with regard to fly ash management

and utilization in Raigarh District. There has to be executable time bound plan to remove fly ash in Raigarh District for which a road map be prepared by the joint Committee and may also be overseen by the Mission in its next meeting, in coordination with concerned authorities.

- (g) Consistent with the Notification dated 31.12.2021 issued by the MoEF&CC, audit of fly ash generation and management be got conducted within three months in respect of each unit generating fly ash in Raigarh District.
- (h) CPCB may issue necessary guidelines to all PCBs/PCCs on determination of compensation in the light of observations in para 12 above.
- (i) Any other victim of Raigarh District adversely affected by the operation of the TPPs with respect to fly ash in Raigarh District to put forward their claim, if any, with the District Magistrate, Raigarh, within two months which may be looked into by the joint Committee.
- (j) The District Environment Plan of Raigarh District may cover all above aspects appropriately so as to be addressed in execution of District Environment Plan in association with stakeholders.
- (k) The joint Committee may ensure that there is effective monitoring mechanism to address the issues on continuous basis.

21. Report of compliance status as on 30.06.2022 may be filed by the joint Committee by 15.07.2022 which may also be uploaded on the websites of CPCB and State PCB for response of affected parties, if any, by 31.07.2022.

List for further consideration on 05.08.2022.



IAs stand disposed of in view of above order.

A copy of this order be forwarded to MoEF&CC, CPCB, Chief Secretary Chattisgarh, State PCB and District Magistrate, Raigarh by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

February 15, 2022
Original Application No. 104/2018
(I.A. Nos. 37/2022 & 40/2022)
A



True Copy

ANNEXURE - B

88

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

Principal Bench, New Delhi

Original Application No. 104/2018

Shivpal Bhagat & Ors.

Applicant(s)

Vs.

Union of India & Ors.

Respondent(s)

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1.	Status Report in compliance to Hon'ble NGT order dated 24.06.2021 in O.A. No. 104/2018 Shivpal Bhagat & Ors. Vs. Union of India & Ors.	
2.	Exhibit 01- A copy of Minutes of 1 st meeting of Oversight committee held on 19.07.2021.	
3.	Exhibit 02- A copy of Minutes of 2 nd meeting of Oversight committee held during 23 -26.8. 2021.	
4.	Exhibit 03- A copy of Minutes of 3 rd meeting of Oversight committee held during 14-17.9.2021.	
5.	Exhibit 04- A copy of Minutes of 4 th meeting of Oversight committee held during 26 -27.10.2021.	
6.	Exhibit 05- A copy of Minutes of 5 th meeting of oversight committee held during 24 -25.11.2021.	
7.	Exhibit 06- A copy of Hon'ble NGT order dated 24.06.2021.	



(Nazimuddin)

Scientist E

Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi- 110032.

Date: 16.12.2021

Place: Delhi



True Copy

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

In the OA No. 104/2018

Shivpal Bhagat versus Union of India &Ors

Status Report of Oversight Committee appointed by Hon'ble NGT

Date- 07.12.2021

1. The issue for consideration is the remedial action against pollution caused by the Coal mines , Thermal Power Plants, the coal washeries in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh, including Chhattisgarh State Power Generation Company Ltd.(Gare Pelma Sector -III), M/s Ambuja Cement Ltd. Coal Mines (Gare Pelma Sector IV/8), M/s Jindal Power Limited, M/s Jindal Power and Steel Limited, M/s TRN Energy Private Limited, M/s Mahavir Energy & Coal Benefaction Limited, M/s. Hindalco Industries Limited, and M/s. Monet Energy Limited, SECL. The operation of the said units is resulting in contamination of air, water and land and having adverse impact on the environment and the habitants requiring monitoring of emissions, making the polluter accountable and to draw remedial measures.
2. A report dated 14-10-2019 was filed by the CPCB on behalf of the Expert Committee on 15.10.2019 in which the Committee visited various sites and considered the earlier reports, including maps and the data of air quality as well as water pollution. The committee also considered ground water depletion, soil pollution, forest loss, and livelihood loss and after detailed study of various aspects suggested for action plan in the form of short and long term measures.

3. The oversight committee held meetings and field visits to ensure implementation of remedial measures and submitted the status reports on 17.11.2020 in tabular form and made further recommendation, considering those the Tribunal issued directions to the Health and PWD Departments of CG Govt. and SECL. The Tribunal also directed consideration of suggestions of the applicants for taking due precaution in the course of dumping in low lying areas. So far as suggestions given by the applicants are concerned the Tribunal directed that the suggestions may be duly considered by the concerned authorities and the committee which may be co-ordinate by the CPCB. Committee after due meetings and field visit submitted their compliance status as on 15-03-2021 in tabular form and also made recommendations on field observations. On 24-06-2021 Hon'ble NGT considered the Committee's report filed on 16-04-2021, committee's field visit, status of compliance as on 15-03-2021, field observations and recommendations. Hon'ble NGT also considered the response of the applicants to the report of the Committee and actions suggested by the applicants and passed order on 24-06-2021. Hon'ble NGT in its order dated 24.06.2021 reconstituting the oversight committee has passed following orders:-

“8. We have given due considerations to the report of the Committee as well as suggestions made on behalf of the applicants. The recommendations of the committee need to be accepted. State Board should prepare list of areas where the unscientific disposal of fly ash has been taken place and generate data about the quantity of the coal mined, used in the industries and available for TPPs. Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipatra to Milupara, disposal of fly ash in abandoned coal mines and constitution of state level committee to look into scientific utilization of the fly ash. Taking such steps is undoubtedly necessary for protection of the

environment. The suggestions of the applicants reproduced above also need to be considered by the Oversight Committee.

9. The Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law. The Committee may continue to oversee remedial measures in terms of directions of this Tribunal. The Committee may undertake field visit and also interact with all the stakeholders. The Committee will be at liberty to take assistance from any other Expert / Institution.”

10. NGT passed order that “We regret to note failure of the concerned departments of the state of Chhattisgarh to respond the Committee and to perform their constitutional obligation to protect environment and public health. Pending taking coercive measures for such failure in due course, we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned department , including PWD and Health on the subject of construction of road and providing Health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries” H

12. The report about the compliance status as on 30-11-2021 may be furnished to this Tribunal on or before 15-12-2021 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. A copy of the report may also be provided to the authorities who are required to implement the recommendations of the Committee to enable such authorities to file their response, if any, before the next date.

List for further consideration on 11-01-2022.

A copy of this order be forwarded to Chief Secretary, Chhattisgarh, MoEF&CC, NEERI, CPCB, State PCB, the Collector, Raigarh and Justice

V.K.Shrivastava, Former Judge of Chhattisgarh High Court by e-mail for compliance.”

4. First meeting HELD AT CIRCUIT HOUSE BILASPUR ON 19-07-2021

Compliance status of short term and long term measures as on 15-03-2021 described in Hon'ble NGT's order dated 24-06-2021 in para 4 and field visit in para 5 has been discussed at length. Applicant's suggestions also seen. For compliance of Hon'ble NGT's order dated 24-06-2021 action plan has been considered. Hon'ble NGT has directed that The Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law. The National Green Tribunal Act 2010 does not define compensation, however section 15 authorizes the Tribunal subject to sub sections (2) to (5) to provide by an order (a) relief and compensation to the victim of pollution and other environmental damage arising under the enactments specified in the schedule 1 (including accident occurring while handling any hazardous substance) (b) for restitution of property damaged (c) for restitution of the environment for such area and areas. State Pollution Control Board having various functions has also been empowered to do such other things and to perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purpose of The Air (Prevention and control of pollution) Act 1981. Although CPCB has drawn and issued methodology for assessing Environmental Compensation and action plan to utilize the same but that does not mean that it restricts assessment of compensation for

victim of pollution relating to its person and property. In view of the above assessment of compensation as desired by Hon'ble NGT does not have any restricted meaning. Committee decided to meet applicants and interact with all stake holders, undertake field visit, collect information for making assessment of compensation relating to environmental, personal and property. No one file any document to appraise compliance of earlier recommendation however we expected with member concerned to file relevant papers so that further remedial measures may be considered. Committee decided to interact with applicants on 23-08-2021 in first part of the day and to interact with stake holders in second part of the day. Committee shall revisit sites earlier visited on 24-08-2021. Sites fresh or old not seen earlier to be visited on 25-08-2021. Committee's meeting should be held in first part of 26-08-2021. First meeting's minutes drawn is attached herewith as **Exhibit -1**.

5. On second meeting the issues raised by the applicants / villagers were about mishandling of fly ash by Jindal Power Limited (JPL) in GP IV/01, GP IV/02 and GP IV/03 mines. The applicants have also raised the issue of fly ash leakage from Ash Dyke of JPL and unscientific dumping of fly ash in low lying areas by M/s TRN Energy Pvt. Limited and Mahaveer Energy & Coal Benefication Limited. Also applicants made brief submissions on their suggestions on action suggested before the Hon'ble NGT.

The oversight committee suggested to the villagers and applicants for submission of their claim in writing about damage occurred due to cause informed in the meeting. The claims were to be submitted in the office of Regional Officer, Chhattisgarh Environmental Conservation

Board, Raigarh on before 10th September 2021 and claimants to be physically present for hearing before Oversight Committee on any day during 14th to 16th September 2021 at Bilaspur.

The oversight committee also heard the stakeholders in A/N on 23rd August 2021 for submission of their compliances on the issues raised by applicants/ villagers. We did Field Visit of Tamnar area on 24.08.2021 on this visit we visited CSPGCL Coal Mines (Gare Pelma Sector –III), M/s Ambuja Cement Coal Mines (Gare Pelma Sector- IV/8)-M/s Hindalco Mine drain and water supply in Kondkhel Village, Gare Palma IV/01 OC Mines, Gare Palma IV/02 & 03 Open cast mines of SECL. JPL Ash Dyke . On 25-08-2021 Field visit of Gharghoda area has been done.

The committee has visited few sites of fly ash dumping where proper strengthening and compaction of fly ash has not been ensured by M/s TRN Energy Pvt Limited resulting flow of fly ash in to adjoining fields and drains leading to River. The location of fly ash dumping exits in village Bhengari, Nawapara, Tenda and Kantagdeeh. Even on the side of State High way unscientific fly ash dump has been found, also adjoining fields have been covered under fly ash dump. The committee also visited newly constructed ash dyke near the power plant in Nawapara .Visit of Sites of Ash Disposal by M/s Mahaveer Energy & Coal Benefication has also not done. The committee has visited dumping sites on 25th August 2021 and found fly ash dumping in Bhengari village and also in the plant premises. Visit of Fluoride contaminated village- Saraitola, Tamnar- has also been made. On 26-08-2021 status of implementation of short term and long term action plan as per field observation was discussed in the meeting .In order to summaries the non-compliances, damage caused, feasible remedies and assessment of compensation, the committee has decided to conduct the hearing meeting at Bilaspur during 14-17th September 2021.

Minutes of the meeting dated 23rd to 26 of August having complete details is **Exhibit -2**

6. For assessment of environmental compensation hearing meeting was conducted from 14th to 17th of September 2021.,in which opportunity of

hearing was afforded to parties , State authorities and also CECB on various points . Review meeting was also done. In order to summaries the non-compliances, damage caused, feasible remedies and assessment of compensation, the committee has decided to conduct the meeting at Bilaspur during 26-27th October 2021 for Calculation of environmental compensation in those cases found not satisfied during hearing in last meeting, Calculation of property damage on application submitted by villager etc.

Minutes of meeting contains complete details and that is **Exhibit 3.**

7. On meeting dated 26-27th October 2021 (ivth meeting) and on 25-11-2021 (Vth meeting) Environmental compensation/Penalty has been assessed , for ready reference extracts of those are reproduced here in below :-

1. Supreme Court of India, M/S. Goel Ganga Developers India ... vs Union Of India Through Secretary ... on 10 August, 2018:- Para 59 (viii) We uphold the original order dated 27.09.2016 holding that the construction raised by the project proponent was in violation of the environmental clearance granted to it on 04.04.2008. We uphold the fine imposed upon the PMC and the direction given to the PMC to take appropriate action against the erring officials. We also uphold the direction given to the Chief Secretary to the State of Maharashtra and in addition, direct that the Chief Secretary to the State of Maharashtra shall look into the conduct of the official holding the post of Principal Secretary (Environment) to the Government of Maharashtra on 27.09.2016 and will submit his report to the NGT within three months from today;

2. Director General (Road Development) National Highways authorities of India V. Aam Aadmi Lokmanch and others AIR 2020 Supreme Court 3471 .

- (1) Calculation of environmental compensation against TPPs and Coal Mines in cases found not satisfied during hearing in last meeting

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
 2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
 3. R, A factor in Rs is taken 250 only
 4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
 5. LF, has been taken 1.0 for population less than one million
- (2) Calculation of property damage on application submitted by villager in favour of the applicant against TPPs
- (3) Calculation of property/ crop damage was done on the basis of area and tentative loss to crop and rate per hector.

1. M/s TRN Energy Private Limited, Nawapara, Raigarh-

M/s TRN Energy Private Limited (2x300MW) thermal power plant is located in village Bhengari, Nawapara (Tenda), Gharghoda, Raigarh. The plant started its commercial production in 2016 with an average generation of fly ash 4000 MT per day. The thermal power has generated approximately 28,79,126 MT fly ash during January 2016 to March 2021, out of which 58% (1665007MT) has been disposed in low lying area of village Chote Gumda, Bade Gumda, Nawapara, Tenda and Baansmuda. As per detail submitted by the TPP the area used for disposal

of fly ash is approximately 17.378 Hectare.

TRN power has created an ash dump violating EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mudwall leading to fly ash flowing into adjoining field even situation to fly ash into neighboring inhabitants. On field visit on 24-25.08.2021 we have seen that by the side of State High way unscientific fly ash dump has been found, also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Another fly ash dump adjoining to Forest and nalah in personal land of some villager have been seen, due to cracks and land break /erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda. The top of Dump was at least 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoining field. To prevent the same no remedial measures has been taken by the PP. On current visit dated 25-08-2021 we find that some of the fields have become useless, in agricultural field flowing of fly ash was found. On road side flow we could see the flowing of fly ash in heavy quantity. A pretty big area has been covered under flowing of fly ash from this Dump.

Representative from TRN admits all these OB dumps and contended that after obtaining the permission from land owner and Gram Panchayat Fly ash dump have been made.

Although they brought some papers and made attempt to show that they have not violated the Environmental conditions. but could not produce permission / consent of State Pollution Control Board. The thermal power plant has also submitted copy of study report conducted in 2018 by ISM Dhanbad which recommends about no metal contamination in ground water due to leaching from fly ash disposed in low lying area.

Ministry of Environment and Forests Notification No. S.O. 763 (E)

dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines gives liberty to loose disposal of fly ash that's too above ground level.

Chhattisgarh Environment Conservation Board has informed about issue of closure notice to the industry. TPP has submitted the reply of notice which is under consideration for decision. The representative of the industry have informed about construction of new ash dyke for which land has been acquired in 2017 and Environmental clearance obtained in year 2011.

Ash Dyke belonging to TRN Energy Ltd , on visit we find that at one place wall of the dyke is severely damaged and we apprehended that accident may took place, Nodal Officer informed the facts for repairs forthwith so as to avoid any unfortunate event. Underground water discharge from dyke is there and the discharged water is flowing to agriculture field. Water samples have been collected. Fly ash flying over the ash dyke has also been seen. Even some of the persons were seen roaming over the dried fly ash lying in the dyke. It appears that there is no recycle water system operating. Construction does not appear to be scientific.

Representatives of TRN does not dispute the damage but they contended that Railway has made dump of the soil in their outer wall and that dump has been eroded due to rain but could not show any evidence to support his contentions. They also stated that as per original permission accorded by MoEC&CC they have constructed this second Ash dyke and for perusal shown the permission letter. In this permission letter there is no sanction of more than one ash dyke even as per deliberation it could come to know that first ash dyke is inside the Plant and this ash dyke has been made outside the plant. Whether ash dyke should have been built in the vicinity of habitants, to reply this question they could not able to show any legal authority or any permission. So far as water discharge is concerned they stated that this water discharge belongs to Railway.

For non compliance of the environmental standard/ violations of legal

direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved. TRN is liable for environmental compensation.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s TRN Energy Private Limited, Nawapara is also included in that list for Environmental Compensation of Rs. 1,48,80,488 on which Hon'ble Supreme Court vide its order dated 04.11.2019 has directed deferment of the proceedings.

In addition to above and in view of a number of breaches of environmental conditions not earlier considered for compensation, independent Environmental Compensation for following period is calculated as under-

- Initial date of compensation- 01.04 .2020
- Last date of compensation- 30.11.2021
- Number of days- 608
- EC in Rs. 1,82,40,600/- (One Crore eighty two lakhs forty thousand and six hundred)

2. M/s Mahaveer Energy & Coal Benification Limited –

M/s Mahaveer Energy & Coal Benification Limited is Biomass based 12MW Thermal Power Plant located in Village Bhengari, Gharghoda, Raigarh. The plant started its commercial production in 2014 with an average generation of fly ash 20,000 MT per annum. The thermal power has generated approximately 1,39,839 MT fly ash during April 2014 to March 2021, out of which 0.04% (56MT) has been disposed in low lying area of village Bhengari. The industries during hearing have submitted documents related with agreement for fly ash use by Sh. Saroj Kumar S/o Sh. Prabhakar Kumar in Brick manufacturing. This agreement was done on 04.12.20 indicating that fly ash generated before 04.12.2020

have been disposed in low lying area. The industry has also provided copy of revenue records in support of ownership of the land. Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines gives liberty to loose disposal of fly ash that's too above ground level. No consent has been obtained from CECB .

The above said notification only permits for reclamation and compaction of fly ash in low lying area but do not give liberty to loose disposal of fly ash that's too above ground level. The oversight committees during its visit have observed heaps of disposed fly ash giving its way to become air borne or flow with rain water in drain leading to surface water contamination.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s Mahaveer Energy & Coal Benification Limited is not included in that list for Environmental Compensation because the industry has submitted report of 100% utilization in manufacturing of fly ash brick to Chhattisgarh Environment Conservation Board which seems to be misleading information given to statuary authority.

Mahaveer Bio Energy has created an ash dump behind its premises in violating theSOP and EC even creating a public hazard. On field visit dated 25-08-2021 we found near a temple there was a fly ash dump adjoining to Forest and River, due to erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground and as per persons gathered there the land is govt. land recorded as ""ChoteJhad Ka Jungle"". No guidelines as prescribed since 1999 have been followed. As per report of committee

dated 11-10-2019 it has been found that M/S Mahaveer Energy is indulging in extensive and irresponsible disposal of fly ash in village Bhengari. In that report Fig. 3 Éxtent of fly ash dumping in agricultural land in Bhengari Village close to Bhengari Nala and Fig. 4. 40 feet height flyash dump by M/s Mahaveer Energy in Bhengari village (in the name of low lying areas dump) . On recent visit on 25-08-2021 we saw the spot (Fig.4 of that report) and found that earlier reporting still continues. We also saw evidence of flowing fly ash from upper portion to lower portion. On 15-17 March visit it has been noted that Mahaveer Energy has created an ash dump behind its premises the top of dump is at least 10 feet height above the ground level and does not confirm to the SOP for dumping in low lying area, even there is no proper retaining wall around the dump creating a public hazard. In present visit we still found the Dump present in open sky flying ash in environment.

Representative from Mahaveer Bio Energy to defend their action have accepted all those dump but their contention is that because of demand of Mandir Samiti, dump near Mandir has been made, other dump are in their own land, they are using fly ash in making the bricks under their own kiln and also providing fly ash to other kiln holder but to support he could not produce land owner ship in his name or other documents regarding actual use of fly ash in making the bricks.

For non compliance of the environmental standard/ violations of legal direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved. M/s Mahaveer Energy & Coal Benification Limited is liable for environmental compensation.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s Mahaveer Energy & Coal Benification Limited is not included in that list for Environmental Compensation because the industry has submitted report of 100% utilization in manufacturing of fly ash brick to

Chhattisgarh Environment Conservation Board which seems to be misleading information given to statutory authority.

Environmental Compensation is calculated as under-

- Initial date of compensation- 01.01.2018
- Last date of compensation- 30.11.2021
- Number of days- 1429
- Operation factor considered- 0.5 (small scale- biomass plant)
- EC in Rs. 1,42,90,000/- (One crore forty two lakhs ninety thousand)

3. Penalty/Fine on Principal Secretary Public Works Department, State of Chhattisgarh.

Committee constituted vide order dated 22-07-2019 after due consideration including field visit submitted its report and the recommendations made therein were considered by the NGT vide order dated 27-02-2020

Short term measures

4.1 f. Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

Long term measures

4.2 b) To reduce the pollution and other impacts caused by road transport of coal and mother minerals , direction may be issued that coal transport by road from coal mines or thermal power plants in these two blocks will be permitted only for a year , after which transport must done by rail or closed conveyor belt only.

Hon'ble the NGT in order dated 27-02-2020 in para 4 has mentioned that "We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for

protection of environment and public health and environmental rule of law.

Further compliance review status as on 09-11-2020 has been filed and considered by Hon'ble NGT vide their order dated 20-11-2020.

02. Long Term Measures

REVIEW STATUS AS ON 09-11-2020

As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY 2019-20 after construction of new rail line between Kharsia – Gharghoda- Korichhapar , coal dispatch from Korichhapar railway siding commenced in FY 2019-20. It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2020.

The Committee on field observation has made recommendation as below:-

1. EE PWD was present before committee to apprise the status of PWD roads in the area .Committee has observed very bad road conditions in Tamnar and Gharghoda area which seems to be one of the measure factors for deterioration of ambient air quality. EE PWD Sh. Khamra has informed the committee about requirement of immediate construction of approximate 111 KM CC road (Raigarh to DharamjayGarh about 76 Km and Punjipathra to Milupara about 35n Km.)but due to budget constraint the work is pending since last several years. An amount of Rs. 335Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. More over SECL has paid an amount of 42 Crore to Raigarh PWD for construction of 19 Kms, 7m wide tar road from Gharghoda to Jampali in compliance of NGT order.
2. RECOMMENDATIOINS
3. 2.Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget of Rs. 335 Crore (@ Rs 3.00 crore per km) for construction of CC road approximately 111 km length of 7 m width (Raigarh to DharamjayGarh about 76 km and Punjipatra to Milupara about 35 km) and insure its execution before March 2021. In this context time bound action plan with bank guarantee of Rs. 35 Crore may be obtained from PWD, Chhattisgarh to ensure timely execution of the work.

Hon'ble NGT passed order that Principal Secretary Health and the PWD Department, Chhattisgarh Government may act as per recommendations of the committee. (NGT order dated 20-11-2020)

Further compliance review status as on 15-03-2021 has been filed and considered by Hon'ble NGT vide their order dated 24-06-2021.

f). Proper repairing and maintenance of road outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

REVIEW STATUS AS ON 15-03-2021

EE PWD, Raigarh has informed the committee about requirement of immediate construction of approximate 111 KM CC road (Raigarh to DharamjayGarh about 76 Km and Punjipathra to Milupara about 35n Km.) but due to budget constraint the work is pending since last several years.

Letter issued to PS, PWD, S-1/03 Mahanadi Bhawan, Raipur by this office vide number RDB/NGTOA 104/2018/553 dated 07-09-2020 and 06-01-2021 to sanction Rs. 335 crore for construction of 111 km CC road. No response has been received from PS, PWD Chhattisgarh Government.

FIELD OBSERVATION S

5. EE PWD Raigarh has informed the committee about immediate construction of approximate 111 Km CC road (Raigarh to Dharamjaygarh about 76 Km and Punjipathra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. Hon'ble NGT in its order dated 20-11-2020 (point 5) has instructed PS, PWD to sanction the required fund and ensure execution before March 2021. During field visit execution of the work was not observed, hence the issue was further clarified with EE, PWD, Raigarh who informed as under:-

- > Main High way connecting Raigarh to Dharamjaygarh has now been included in National Highway Scheme*
- >Stretch from Chhal Mines to Gharghoda has been approved for two lanes*
- >Stretch from Punjipathra to Milupara via Tamnar not yet approved*

In view of the above committee has instructed to EE, PWD, Raigarh to identify badly damaged patches in this stretch and prepare a budget and get the same approved so as to complete the work within three months. Stretch from Punjipathra to Milupara via Tamnar has also to be taken on highest priority because of the heavy traffic load on this route.

RECOMMENDATIONS

4. Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget for 111 km road from Raigarh to Dharamjaygarh and Punjipathra to Milupara via Tamnar and ensure its execution within three months. In this context time bound action plan shall be submitted to ensure timely execution of work.

FIELD OBSERVATIONS AS NOTED IN PARA 5 OF THE ORDER DATED 24-06-2021.

5. Improve Road quality to reduce spillage and air pollution- Gharghoda and Tamnar area of Raigarh is extremely in coal mineral and extensively mined by SECL and other private companies. It was observed that very less percent of coal produced in the area is available for existing industries of Raigarh. Most of the coal mined is being transported to nearby areas in Chhattisgarh and other states. Hence road condition of Raigarh plays an important role in deterioration of ambient air quality. In order to ensure better ambient air quality and statistical balance is to be developed between road transport and rail transport. It was found satisfactory that developments of rail network with five coals siding the area are at the stage of completion. Hence it is required to decide a time line for transportation of coal by rail only specially being dispatched to other states. Road transport of coal shall be limited for those power plants operational in Raigarh.

EE PWD, Raigarh has informed the committee that main highway immediately connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme. Stretch from Chall mines to Gharghoda has been approved for two lane and its strengthening. Stretch from Punjipathra to Milupara via Tamnar (25 km) and stretch from Milupara to Lailung not yet approved.

Action : Since the actual process of constructing the NH will take atleast

two years , PWD is instructed to identify badly damaged patches in this stretch and prepare a budget and get the same approved and acted upon immediately (within 3 months). As for as constructions of other stretches are concern PWD shall take highest priority because these are the stretches with heaviest traffic density.

Hon'ble the NGT in para 8 have observed that Steps need to be taken expeditiously for development of health facilities , constructing necessary road from Raigarh to Dharamjaygarh and from Punjipathra to Milupara,..... In para 9 directed that "The Oversight Committee may make assessment of compensation for the violation on the basis of which the statutory Board may take further action, following due process of law."In para 10 passed order that "We regret to note failure of the concerned departments of the state of Chhattisgarh to respond the Committee and to performs their constitutional obligation to protect environment and public health. Pending taking coercive measures for such failure in due course , we direct the Chief Secretary , Chhattisgarh to ensure necessary action on the part of the concerned department , including PWD and Health on the subject of construction of road and providing Health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries" H

Thrice Hon'ble NGT passed order against PWD and Health Department of State of CG finally apprised them towards penal consequences of disobedience but both these department took the said orders in a very casual manner and even gave a deaf ear to those orders.

Opportunity of hearing for consideration of environment compensation/ penalty has been provided. Intimation was sent to PS PWD Chhattisgarh Government to join the committee meeting on 16th September 2021 for hearing about progress/ constraint observed in delivering the target defined in action plan submitted to Hon'ble NGT.

Chief Engineer, Bilaspur and Executive Engineer Raigarh of PWD attended the meeting and briefed the progress as under-

1. An amount of Rs.6274.33 Laks is sanctioned on 08.09.2021 for 27.50 km CC road from Punjipathra to Tamnar.
2. Approval granted on 23.02.2021 for an amount of 2032.95 Lakhs for renovation work of 13.40 km road from Raigarh to Gharghoda.
3. Approval granted on 08.09.2021 for an amount of 1797.25 Lakhs for renovation & Strengthening work of 10 km road from Chaal to Gharghoda.
4. So far as patch repair work is concerned, no documents or material could be produced even otherwise we could not see any repair work going on, on the roads.

All above sanctions and approvals are subject to acquirement of land, Release of Loan and two years' time for completion. Till date there is no progress regarding acquisition of land, sanction of loan, etc. All these facts itself shows that matter has not been given any seriousness or to say in near future the road is not going to be made.

The committee is not satisfied with submission.

Matter to be considered for imposition of Penalty/Fine

From afore stated complete facts it is clear that dept.of PWD did not care to follow the directions of the committee and also did not complied the orders of the Hon'ble NGT even they misguided committee and NGT by informing that road main highway connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme which appears to be not correct because no such document to show that NH has taken over the Road has been provided. Although they received amount from SECL despite that they did not took interest to construct road. Non Construction of road and lack in repair work is one of the reason for pollution caused by road transport even there is no surety that in near future the construction of road will be made by the department. In fact this is a case of deliberate disobedience of remedial

measures by the PWD, therefore for environment breach Depart.of PWD is also responsible and therefore cannot escape its liability to pay Penalty / Fine ..

If environmental Compensation is to be levied as per calculation below-

- Start date non- compliance- 07.09.2020
- Last date of compensation- 30.11.2021
- Number of days- 448
- Rate Rs. 30,000 per day
- EC comes to Rs- 1,34,40,000 (One Crore, thirty four lakhs, forty thousand)

But we are of the opinion that Penalty/ fine should be imposed , therefore after due consideration we assess/propose Penalty/Fine imposed on Principal Secretary PWD, State of CG Rs.1,00,00,000/- (Rs. One Crore)

4. Penalty/Fine on Principal Secretary, Health Department,CG Govt.

Committee constituted vide order dated 22-07-2019 after due consideration including field visit submitted its report and the recommendations made there in were considered by the NGT vide order dated 27-02-2020

Short term measures

g. *Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (4A 314/2014 CZ) case. (Action by respective coal mine companies).*

Hon'ble the NGT in order dated 27-02-2020 in para 4 has mentioned that "We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for protection of environment and public health and environmental rule of law. In para 5 have made reference to applicants contentions and passed order in para 6. In para 6 have ordered that "Mitigation measures for

heath issues may be over seen by the Principal Secretary , Health, Govt. of Chhattisgarh. For this purpose , the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary , Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds.”(NGT order dated 27-02-2020)

Further compliance review status as on 09-11-2020 has been filed and considered by Hon’ble NGT vide their order dated 20-11-2020.

01. Short term measures

g. Proper and free heath care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies)

REVIEW STATUS AS ON 09-11-2020

“Mitigation measures for heath issues may be over seen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds.”

02. Long Term Measures

b) To reduce the pollution and other impacts caused by road transport of coal and other minerals, direction may be issued that coal transport by road from coal mines or thermal power plants in these two blocks will be permitted only for 1 year, after which transport must done by rail or closed conveyor belt only.

REVIEW STATUS AS ON 09-11-2020

The Committee on field observation has made recommendation as below:-

- 1.
2. RECOMMENDATIOINS

3. 1. *In order to ensure development of health facilities in the village of mining affected area, Principal Secretary, Health, Chhattisgarh Government may be advised to keep informing the oversight committee about development made in health facilities’.*

Hon’ble NGT passed order that Principal Secretary Health and the PWD Department, Chhattisgarh Government may act as per recommendations of the committee. (NGT order dated 20-11-2020)

Further compliance review status as on 15-03-2021 has been filed and considered by Hon’ble NGT vide their order dated 24-06-2021.

01. Short term measures

g). Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies)

REVIEW STATUS AS ON 15-03-2021

“Mitigation measures for health issues may be over seen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. Collector Raigarh has assured to arrange the required medical facility in the area by way arranging n health screening camps in all villages within next few months.

RECOMMENDATIONS

3. *In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the Oversight Committee about development made in health facilities.*

FIELD OBSERVATIONS AS NOTED IN PARA 5 OF THE ORDER

DATED 24-06-2021.

4. *Public health facilities and disease screening – The committee has also discussed about requirement of health infrastructure and status of available facilities in Gharghoda and Tamnar area, Collector Raigarh has informed the committee that there are adequate facilities available at Tamnar CHC and at the Fortis – JPL multispeciality hospital at Tamnar. Collector Raigarh has also assured to organize “health Camps” within the next three months in all villages surrounding the mines areas in T & G blocks, and then ensure regular screening after that on a yearly basis.*

Hon’ble the NGT in para 8 have observed that Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipathra to Milupara,..... In para 9 directed that “The Oversight Committee may make assessment of compensation for the violation on the basis of which the statutory Board may take further action, following due process of law.”In para 10 passed order that “We regret to note failure of the concerned departments of the state of Chhattisgarh to respond the Committee and to perform their constitutional obligation to protect environment and public health. Pending taking coercive measures for such failure in due course , we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned department, including PWD and Health on the subject of construction of road and providing Health care facilities and drinkingwater to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries” H

Thrice Hon’ble NGT passed order and finally apprised them to wards penal consequences of disobedience but department took the said orders in a very casual manner and even gave a deaf ear to those orders.

Opportunity of hearing for consideration of environment Penalty/Fine has been provided to the department.

Intimation was sent to PS, Health, Govt. of Chhattisgarh to join the committee meeting on 16th September 2021 for hearing about progress/constraint observed in delivering the target defined in action plan submitted to Hon'ble NGT. PS Health Chhattisgarh Government could not ensure his presence in person/representative in the meeting.

The documents and information provided about infrastructure of health facilities reveals that health care facilities are insufficient and no serious efforts have been made to improve it even on the direction of Hon'ble NGT.

Hence the matter to be considered for imposition of environmental Penalty/Fine.

- The oversight committee in its report dated 14.10.2019 submitted to Hon'ble NGT had recommended proper and free health care facilities with multispecialty treatment system may be provided in all coal mine adjacent villages. In this context Hon'ble NGT has given the liberty to PS Health Government of Chhattisgarh to oversee the mitigation measures for health issues. For this purpose the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds.
- In its further order dated 20.11.2020 Hon'ble NGT has directed PS, Health Govt. of Chhattisgarh to keep informing the oversight committee about development made in health facility. In spite of the direction issued by Hon'ble NGT no progress was submitted PS, Health, Govt. of Chhattisgarh to the oversight committee.

- Hon'ble NGT in its order dated 27.02.2020 has directed that *mitigation measures for health issues may be overseen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health, Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. A copy of this order be sent to the CPCB, Principal Secretary, Health, Govt. of Chhattisgarh, Ministry of Coal as well as the MoEF&CC by e-mail.*

- Hon'ble NGT in order dated 24.06.2021 on point number 10 mentioned that
“We regret to note failure of the concerned departments of the State of Chhattisgarh to respond to the Committee and to perform their Constitutional obligation to protect environment and public health. Pending taking coercive measures for such failures in due course, we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned departments, including PWD and Health on the subject of construction of road and providing health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries. “

Principal Secretary Health neither responded the above orders issued by Hon'ble NGT nor could do any work to protect environment and public health. He not only took all the orders passed by Hon'ble NGT in a very casual manner but also gave a deaf ear to those orders. His non involvement in taking remedial measures is one of the reason to increase public health hazard which arose due to air and water pollution. Neither he took part in environmental Penalty/Fine hearing although noticed nor could show any ground to exempt him from levying the Penalty / Fine.

If environmental Compensation is to be levied as per calculation below-

- Start date non- compliance- 27.02.2020
- Last date of compensation- 30.11.2021
- Number of days- 641
- Rate Rs. 30,000 per day
- EC comes to Rs. 1,92,30,000 (One Crore, ninety two lakhs, thirty thousand)

But we are of the opinion that Penalty/ fine should be imposed , therefore after due consideration we assess/propose Penalty / Fine imposed on Principal Secretary PWD, State of CG Rs.1,00,00,000/- (Rs. One Crore)

5.Physical verification of progress as on 30.11.2021 and Environmental Compensation

Visit of CSPGCL Coal Mines (GarePelma Sector –III) - The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit



it was found that OB dump on one side Pic-02 of the road was located at approximately 80m distance from road side but OB dump all along road was not within prescribed distance, even on many

places it is adjacent to road. Dump process is still continuing .We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Villagers assembled there and applicant's representatives have stated there that because of dump and traffic in road this place has been declared as accidental zone and within a year around 10 persons have been killed in accident. Road condition is very bad.Although in one side Provision of check drains have been seen but appears to be not having width of adequate size, the sludge or waste materials along with water is passing through the agricultural fields and is terminating in nallah.(Subsequently we come to know that this is not a Nala but River)((O.B. Dump in CGSPGCL mine at Gare Palma sector 3 observed on field visit during 15-17 March 2021 on both sides of Public Road). This public road is within the mining area and as stated and shown by company officers present there as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not complied the directions of notification 2009.Although in one side Provision of check

drains have been seen but in other side there appears no provision of check drains and garland drains have been made to ensure that the sludge or waste materials does not go into the nullah. (Subsequently we come to know that this is not a Nala but River).

For environmental compensation and for remedial measure CGSPGCL ,’was required to be heard on Maintenance of Public Road, on illegal OB dump , non use of fly ash , non construction of garland drains and proper settling tanks , Sludge and waste materials passing through agricultural field destroying crop production going to Nallah. (Subsequently we come to know that this is not a Nala but River) therefore the mine authorities were instructed to present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur. **Environment compensation hearing dated 14th September 2021. Heard, Chhattisgarh State Power Generation Company Limited Coal Mines (Gare Pelma Sector –III) -**

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB Dump has been made on both sides of road even in some places adjacent to road. This public road is within the mining area and as stated and shown by companies officer present there, as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not complied the directions of notification 2009. For Mining operation roads with the mines area is to be constructed by the lessee and lessee has to divert public roads, at his own cost to facilitate scientific mining. We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Condition of the road is bad. The mine authorities were present in hearing meeting with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by

Chhattisgarh Environment Conservation Board, Raipur.

The representatives of CSPGCL presented the mining plan in which location of the OB dump is sited on the same place subject to diversion of PWD road passing between lease area. They stated that CSPGCL has deposited required amount with PWD, Raigarh for diversion of the road. There is no material to know whether PWD is diverting the road or not and if they intend to divert the road, by which time they may start and complete the diversion.. Hence storage of OB dump near to public road may create danger to public passing through the road. In this context committee was of the opinion that CSPGCL shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect the public interest from accident as well as fugitive emission. CSPGCL shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. CSPGCL shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash OB dump shall be followed.

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron structure up to a height of minimum 3m at 50m distance from road on both side of road along full road length in leased area. The said construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

On verification visit dated 24-11-2021 we found that construction of physical barrier of steel sheet mounted on iron structure was in progress. Mines authorities present there stated the further minimum 15 days time may take to complete the work. They also apprised that CSPGCL obtained necessary permission from DGMS for compliance of notification 2009 utilization of 25% of fly ash.M/s CSPGCL vide

its letter dated 18.11.2021 requested to DGMS for obtaining permission to use fly ash in its OC mine Gare Pelma sector-III as per study report submitted by CIMFER. Director of Mine Safety, Raigarh vide its letter dated 23.11.2021 has restricted fly ash dumping in the opencast working till submission of clarification for factor of safety (FOS) and suitable geometry of inpit and external dump design by scientific agency.

Violations of environmental conditions and directions as noted above brings the Chhattisgarh State Power Generation Company Limited Coal Mines (Gare Pelma Sector –III) under four corners for payment of Environmental compensation.

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
5. LF, has been taken 1.0 for population less than one million

Environmental compensation is calculated as under-

- The CTO issued on 23.10.2020 has condition of fly ash utilization in stowing.

- Consent condition was amended on 22.06.2021 for utilization of fly ash in OB dump.
- Date of first observation of non-compliance- 17.03.2021
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 253 days

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)

6. Visit of M/s Ambuja Cement Coal Mines (GarePelma Sector- IV/8)-

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit of the committee OB dumping was observed



on both side of the road (Pic-03). This public road is passing through the mines area and utilized by public, Mines operator and coal transporters. No garland drains with proper settling tanks have been constructed. 25% of fly ash as required in 2009 notification for OB dump has not been done. We saw a number of coal loaded trucks passing through this road, Road condition is very bad. Ambuja Cement Ltd to be heard on Maintenance of Public Road, on illegal OB dump, non use of fly ash, non construction of drains and proper settling tanks . The mine authorities were instructed to present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

Heard, M/s Ambuja Cement Limited Coal Mines (Gare Pelma Sector –IV/8) on Environment compensation on14th September 2021

The field visit of oversight committee dated 17.03.2021 has

observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB dump was located very near to road side which was creating danger to public and transport moving on road. The mine authorities were present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

The representatives of M/s Ambuja Cement Limited presented the mining plan in which location of the OB dump is sited at distance of minimum 45m from road side subject to diversion of PWD road passing between lease area. Officials of M/s Ambuja Cement Limited stated that they have deposited required amount with PWD, Raigarh for diversion of the road but there is no material to know whether PWD is diverting the road or not and if they intend to divert the road , by which time they may start and complete the diversion . Hence storage of OB dump near to public road may create danger to public passing through the road. In this context committee was in opinion that M/s Ambuja Cement Limited shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect the public interest from accident as well as fugitive emission. M/s Ambuja Cement Limited shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. M/s Ambuja Cement Limited shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash in OB dump shall be followed.

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron structure up to a height of minimum 3m at 50m distance form road on both side of road along full road length in leased area. The said

construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

On verification visit dated 24-11-2021 we found that construction of physical barrier of steel sheet mounted on iron structure was in progress. Mines authorities present there stated that further minimum 15 days time may take to complete the work. They also apprised that they could not obtain necessary permission from DGMS for compliance of notification 2009 utilization of 25% of fly ash.

Violations of environmental conditions and directions as noted above brings the M/s Ambuja Cement Limited Coal Mines (Gare Pelma Sector –IV/8) under four corners for payment of Environmental compensation.

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
5. LF, has been taken 1.0 for population less than one million

Environmental compensation is calculated as under-

-
- The CTO issued on 23.10.2020 has condition of fly ash utilization in OB dump and stowing.
- Date of first observation of non-compliance- 17.03.2021
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 253 days

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)(30,000x253)

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)

7. M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5)

The committee has also visited the site of M/s Hindalco Industries Limited coal mine on 24th November 2021 and found that the mine is divided in two parts. In both parts mines operation is continuing. Back filling was also being done without utilizing fly ash. OB Dump has also been created without utilizing fly ash. Green belt has not been developed, however in OB dump they have planted some ornamental plant like GUL MOHAR, some fruit plant like mango, Guava etc. these plants are very small and their survival is under question. Trees to be planted in green belt or otherwise in mines area are not planted. We could not find garland drain along OB dump and settling ponds. From officials present we could come to know that coal extracted from here is supplied to their captive power plant situated in ORISSA. When they have their own power plant, they are also producing fly ash but are not utilizing their fly ash here in their mines in back filing or in



OB dump even they did not tell how they are disposing their own fly ash. M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5) has been directed to be present to defend their liability to pay environmental compensation in environmental compensation hearing on 25.11.2021 at Bilaspur with all relevant documents.

Heard M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5) on 25-11-2021 on assessment of environmental compensation.

Representatives from M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5) appeared and contended that they have on mobile connectivity contacted DGM for permission and guidance for utilization of fly ash ,who gave a date for their inspection. They stated that after getting permission from DGM they may take steps to utilize Fly ash in back filling and OB Dump.

The mines is found divided in two parts . In both parts mines operation was continuing. Back filling was also being done without utilizing fly ash. OB Dump has also been created without utilizing fly ash. Green belt has not been developed, however in OB dump they have planted some ornamental plant like GULMOHAR, some fruit plant like mango etc. these plants are very small and their survival is under question. We could not find garland drain along OB dump and settling ponds. From officials present we could come to know that coal extracted from here is supplied to their captive power plant situated in ORRISSA . When they have their own power plant, they are also producing fly ash but are not utilizing their fly ash here in their mines in back filing or in OB dump even they did not tell how they are disposing their own fly ash.

M/s Hindalco Industries Limited was to provide adequate garland drain along with OB dump with sufficient number of settling ponds to ensure suspended solid free discharge of storm water in rainy season. Hindalco Industries Limited was to comply with the provisions of notification 2009 for utilization of 25% of fly ash in OB and back

filling. They were also required to develop proper Green Belt.

In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million

- The CTO issued on 02.01.2020 has condition of fly ash utilization in OB dump and stowing.
- Date of first observation of non-compliance- 02.01.2020
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 698 days

EC in Rs. 2,09,40,000/- (Two Crore, nine lakhs forty thousand) (30,000/-x698)

8. **Visit of Gare Palma IV/01 OC Mines- The captive power plant of M/s Jindal Steel & Power Limited**, Dongramau has permission for disposal of its fly ash in Gare Palma IV/01 open cast mines. During visit of the committee on 24th August 2021 it was observed that fly ash mixed with OB being disposed near Nalah passing in mining lease area. (PIC- 07) The distance between disposal site and Nalah seems to be less than 500m and during rainy season fly ash may take a way to River kelo through Nalah. The issue has been considered as negligence in selection of site and M/s JSPL has been directed to be present in environmental compensation hearing meeting on 15.09.2021 at Bilaspur with all documents EC, Consent and quantity of fly ash disposed and remediation proposal if any.



On environmental compensation hearing representative from JSPL were present who have been heard and findings recorded that captive power plant of M/s Jindal Steel & Power Limited, Dongramau has permission for disposal of its fly ash in Gare Palma IV/01 open cast mines. During visit of the committee on 24th August 2021 it was observed that fly ash mixed with OB being disposed near drain/ Nala (a watercourse) passing in mining lease area. The distance between disposal site and drain seems to be less than 500m and during rainy season fly ash may take a way to River Kelo through drain/ Nala (a watercourse). The issue has been considered as negligence in selection of site and M/s JSPL has been directed to shift the same on or before 30.11.2021.

On verification on 24-11-2021 we found that fly ash mixed with OB being disposed near drain/ Nala (a watercourse) passing in mining lease area has been removed. M/s JSPL vide its letter dated 28.10.2021 addressed to Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh has informed about removal of OB on 24.10.2021. The committee has also visited the site on 24th November 2021 and found that all OB dump was removed from the site. In view of noncompliance from 24th August 2021 to 24th October 2021 (62 days) EC may be imposed. In view of the above non-compliance Environmental compensation is calculated as under-



The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million

Date of observation of noncompliance- 15.09.2021

Date of observation of compliance – 24.10.2021

Hence EC (in Rs) = 30,000 X 39 = 11,70,000/- (Eleven Lakhs seventy thousand Only)

9. M/s Jindal Power Limited, Tamnar, Raigarh-

It was reported in over sight committee visit on 17.03.2021 about leakage of fly ash slurry from ash dyke of M/s Jindal Power Limited. The committee had suggested M/s JPL to conduct study through a research organization of national repute to determine the stability of the existing ash dyke and take measures required to strengthen as needed. In order to take the status, the oversight committee once again visited the site on 24th August 2021. Although spot shown by the officials of the JPL we could not observe leakage on that area from the dyke but we are not sure about other part of the dyke. The committee has discussed in details about process adopted for repair of the leakage and directed M/s JPL to submit the authentic report about strength of repairing undertaken and the stability report of the existing ash dyke from research organization of national repute on or before 30-11-2021.

JPL after complying the direction have submitted stability report conducted by NIT Raipur but did not file any documents to show details about process adopted for repair of the leakage or to establish repair conducted by competent person/ authority therefore is liable for Environmental compensation from 17-03-2021 to 24-08-2021

In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million

- The Environmental condition has been violated from 17-03-2021
- Date of first observation of non-compliance- 17-03-2021
- Date of compliance taken for assessment-24-08-.2021
- Number of days for non-compliance- -161days
- Determination of Environmental Compensation (EC)
- Hence EC (in Rs) = 30,000 X161 = 48, 30,000/- (Forty Eight Lakhs Thirty thousand Only)
-

10. Calculation of property damage on application submitted by villagers in favour of the applicant against TPPs

Applications were against TRN Energy Pvt.Ltd.and against M.s Mahaveer Energy& Coal Benification Ltd. Although copyof the application are been served on these TPPs but they did not file any reply.

For hearing against these applications, both the parties remained absent. For verification services of concerned Patwari have been taken. As per information provided by the Patwari only 4 persons were found entitled therefore for those persons compensation has been calculated and remaining applications have been rejected.

Calculation of property/ crop damage was done on the basis of area and tentative loss to crop and rate per Quintal

As per report of the area Patwari Govt. has fixed per hector crop 37 quintal and price including bonus Rs.2500/- per quintal of paddy.

The damage claims submitted by the affected villagers and farmers were scrutinized by officials of land revenue departments. They have given the affected area of claimant. Environmental compensation in the shape of damage has been calculated as below damage claim submitted by villager details of affected land is as under-

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. Ghuraoram Rathia Nawapara	381/01	0.076	7030
02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895	408017.5 allowe only Rs.1,11,000/- as claimed 175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

-
- Note- Damage calculated based on productions of 37 quintals per hectare considering rate of crop @ Rs. 2500

per quintal.

- The committee has decided that as environmental compensation /damage claim will be paid by M/s TRN Energy Private Limited to the affected villagers/ farmers as per above list accordingly.

At a glance

Environmental Compensation/ Penalty/Fine have been calculated for non-complying industries and departments. The details are as under-

Sl. No	Name of the industry / department	EC/Penalty/Fine amount in Rs
01	Principal Secretary, Public Works Department Chhattisgarh Government	1,00,00,000/-
02	Principal Secretary, State Health Department Chhattisgarh Government	1,00,00,000/-
03	M/s TRN Energy Private Limited, Nawapara Raigarh	1,82,40,600/-
04	M/s Mahavir Energy and coal beneficiation Limited	1,42,90,000/-
05	M/s Hindalco Industries Limited Coal Mine	2,09,40,000/-
06	M/s Ambuja Cement Limited Coal Mine (GP IV/8)	75,90,000/-
07	M/s Jindal Steel & Power Limited, Dongramau, Tamnar	11,70,000/-
08	M/s Chhattisgarh State Power Generation Company Limited	75,90,000/-

09.	M/s Jindal Power Ltd, Tamnar	48,30,000/-
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Environmental Compensation against TRN Energy PVT. LTD. have been calculated for damage to property of individuals. The details are as under-

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. Ghurauram Rathia Nawapara	381/01	0.076	7030
02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895	408017.5 allowed only Rs.1,11,000/- as claimed 175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

Minutes of meeting dated 26 & 27 October 2021 is Exhibit 4 and dated 24 & 25 November is Exhibit 5 As per minutes of 5th meeting dated 24 & 25 Nov. 2021

8. Shri Sharachchandra Lele, One of the member has vide postal communication dated 04-Aug.2021 raised two points for consideration but after first meeting did not turn up to prosecute these points therefore in his absence we are constrained to take those points for considerations.
9. Shri (Dr.) Sharachchandra Lele's contention in brief is that "their recommendation regarding is continuing no further disposal of fly ash in low lying area has been accepted by Hon'ble NGT in order dated 27-02-2020 but it appears that dumping is continuing and Hon'ble NGT's order dated 27-11-2020 inadvertently introduced some confusion by saying that "the applicant has given suggestion to the effect that fly ash dumping in low- lying area should be ensured. Hon'ble NGT in its order dated 27-02-2020 has considered the recommendations. In para 4 has mentioned that "We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for protection of environment and public health and environmental rule of law. In para 5 have made reference to applicants contentions and passed order in para 6. So far as Order dated 20-11-2020 passed by Hon'ble NGT is concerned Hon'ble NGT in para 6 stated that "Further the applicant has given suggestions by way of written submissions filed on 18-11-2020, inter alia to the effect that contaminated sites be seen, fly ash dumping in low – lying areas be ensured and such dumping should not be in unscientific manner. The legacy fly ash dumps may be remediated. Hon'ble NGT after quoting submissions of the applicants have ordered that "The above suggestions may be duly considered by the concerned authorities and the committee which may be co-ordinated by CPCB. In view of the above we did not find any substance to revise our recommendation again.
10. Another grievance raised by Shri (Dr.) Sharachchandra Lele's is that there was no discussion about the content of the new ToR during the March field visit or meeting in collector's office nor any discussions regarding to whom to invite for the study The 30th March letter to NEERI was issued without any decision to that effect having been taken

by the committee. His further grievance is that NEERI is also represented on the Oversight Committee therefor there is an apparent conflict of interest in the Oversight Committee commissioning NEERI to carry out the study. After study when report is to be vetted again conflict of interest will take place. Further contentions is that the ToR sent to NEERI has not been framed by the Committee to cover clear picture of carrying capacity.

11. Shri (Dr.) Sharachchandra Lele , PhD himself has recognized National Environmental Engineering Research Institute an excellent nationally recognized research organization in this field. Recommendations made by the Committee from time to time and concurrence given to the same by Hon'ble NGT from time to time , does not require to made any further recommendation contrary to earlier given.

12. **EXECUTION APPLICATION FILED BY APPLICANTS BEFORE HON'BLE NGT NO.11 OF 2021.** Shivpal Bhagat Applicant No. 1 in OA No. 104/2018 has filed application seeking compliance and execution of order dated 27-02-2020 passed by Hon'ble NGT. On 20-10-2021 only one E-mail received having 2 letters. In one E-Mail learned counsel for the applicant has disclosed that "Albeit filed, EA 11/2021 was not on board on the said date. However, during the hearing, an oral submission on behalf of the applicant had been made with regard to submitting the attached application for considering by Ld.Committee. In furtherance to the submission, please find below the application that has been so filed. We bring to your kind attention that the same had been forwarded on an earlier occasion as well. It is requested that the submission of the applicant be also considered by the Committee while formulating a report as per the orders of the Hon'ble NGT." In another letter they have written that "we had filed the above mentioned Execution application before the Hon'ble Tribunal seeking compliance and execution of order dated 27-02-2020 passed by Hon'ble Tribunal in Original application. The contents of the Execution application were

brought to the notice of the Hon'ble Tribunal and it was opined by the hon'ble Tribunal that since the committee has taken cognizance of the matter, it would be appropriate that the issue raised in the Execution Application be considered by the committee. In light of the above, you are requested to consider the Execution Application attached herein below as representation on behalf of Applicant No. 1.

13. This execution application is pending before Hon'ble the NGT for determination, consideration and decision. There is no order from the Hon'ble NGT, to consider this execution application as representation of applicant no. 1 and to consider while formulating a report. The matter is sub judice therefore we do not find it appropriate to consider while formulating our report. In view of the above, the prayer made by the applicant to consider this execution application as representation of applicant no. 1 and to consider while formulating a report stands disposed of.

FINAL COMPLIANCE REVIEW STATUS AS ON 30-11-2021

1. Short-term measures

1.1 Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling.

As per compliance report submitted on 07.04.2021 and accepted by Hon'ble NGT in its order dated 24.06.2021 Two SECL mines (IV/2,3) and one JPL mine (IV/1) only are accepting fly ash for disposal in OB dump. Other coal mines in Tamnar and Gharghoda area are not accepting fly ash for disposal in OB dump.

Although Environmental compensation has been assessed but for future they are not exonerated and shall be liable to assessment of Environment Compensation and other legal actions.

CEA vide its letter dated 14.02.2020 has informed about declaration of abandoned mines on recommendation of task force. The list includes 24 abandoned OC mines of Chhattisgarh to be used for filling of fly ash generated from TPP. The committee has suggested to Chairman, Chhattisgarh Environment Conservation Board for constitution of State Level Committee to decide the mode and quantity of fly ash to be disposed in working/ abandoned mines/quarries in the State. The same committee may also look after the fly ash disposal issues in Raigarh also on priority.

Oversight committee in its meeting dated 27.11.2020 has decided to write Chairman, CECB for constitution of State level Committee for permitting about utilization of fly ash for reclamation of low lying areas and in stowing of abandoned mines/queries only after ensuring the implementation of guidelines prepared by CPCB as per MoEF&CC notification No.SO 763(E) dated 14-09-1999. The decision was taken for giving effect to observations made by Hon'ble NGT in para 6 of their order 20.11.2020.

*“Further, the applicant has given suggestions by way of written submission filed on 18.11.2020, inter-alia to the effect **that contaminated sites be seen, fly ash dumping in low-lying areas be ensured and such dumping should not be in unscientific manner. The legacy fly ash dumps be remediated. Air and land pollution due to fire in the coal mines be remedied. Coal transportation by trucks must be done on scientific basis 13 and transportation by conveyor belts be preferred. Road maintenance be improved. Continuous Ambient Air Quality Monitoring Station (CAAQMS) be installed. Steps be taken for recharge of the ground water. Water supply to the concerned villages be provided by pipes.**”*

In this context Nodal Officer of the oversight committee has written a letter to Chairman, CECB on 26.02.2021(RD/BPL/NGT OA-104/2018/202) for constitution of State level committee for utilization of

fly ash for reclamation of low lying area, and in stowing of abandoned mines/quarries.

In this context, Member Secretary, CGEnvironment Conservation Board, Raipur, apprised us that State level committee has been constituted a long back and now has been reconstituted on 24.01.2019. This reconstituted committee is termed as monitoring committee constituted by Chhattisgarh Government to monitor the utilization of Fly ash in accordance to MoEF&CC notification SO 2804 (E) dated 03.11.2009. This committee is also responsible to ensure implementation of clauses 7, 8(i) & 8 (ii) of MoEF&CC notification SO 2804 (E) dated 03.11.2009 which reads as:-

“(7) No agency, person or organization shall within a radius of hundred kilometers of a coal or lignite based thermal power plant under take or approve or allow reclamation and compaction of low-lying areas with soil; only fly ash shall be used for compaction and reclamation and they shall also ensure that such reclamation and compaction is done in accordance with the specifications and guidelines laid down by the authorities mentioned in sub-paragraph (1) of paragraph 3.

(8)(i) No person or agency shall within fifty kilometers (by road) from coal or lignite based thermal power plants, undertake or approve stowing of mine without using at least 25% of fly ash on weight to weight basis, of die total stowing materials used and this shall be done under the guidance of the Director General of Mines Safety (DGMS);

Provided that such thermal power stations shall facilitate the availability of required quality and quantity of fly ash as may be decided by the expert committee referred in subparagraph (10) for this purpose.

(ii) No person or agency shall within fifty kilometers (by road) from coal of lignite based thermal power plants, undertake or approve without using at least 25% of fly ash on volume to volume basis of the total materials used for external dump of overburden and same percentage in upper benches of back filling of opencast mines and this shall be done under die guidance of the Director General of Mines Safety (DGMS);

Provided that such thermal power stations shall facilitate die availability of required quality and quantity of fly ash as may be decided by the expert committee referred in subparagraph (10) for this purpose.”

When there is already one statutory committee for monitoring and facilitating implementation of notification at the respective State Government level, there appears no need for constitution of another committee for the same work in the same field,

CECB vide its letter number 318 dated 10.05.2021 has made allotment of fly ash disposal in void of Domnara OC mine (Abandoned) of Raigarh but no progress observed on ground, Only one abandoned mine is there for filling of fly ash but the same has been allotted to five companies situated in different area and with different quantities. This allotment has been done in complete violation of "GUIDELINES OF CIL OFFERING MINES VOIDS FOR FLY ASH DISPOSAL The guidelines is a complete code and following that only mines was required to be allotted and compliance should have been made. CECB should have asked Coal India Ltd to follow their own guidelines from inception of allotment of Mine void till disposal of fly ash and after closure of the site till reclamation.

- 1.2 **Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.**

District collector, Raigarh has issued letter to concern departments for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly ash. During visit committee has observed restriction on fly ash disposal in low lying areas particularly in agricultural fields of the villages.

Hon'ble NGT in its order dated 20.11.2020 directed that contaminated sites be seen, fly ash dumping in low-lying areas be ensured and such dumping



should not be in unscientific manner. The legacy fly ash dumps be remediated. In this context Nodal Officer of the oversight committee has written a letter to Chairman, CECB on 26.02.2021 (RD/BPL/NGT OA-104/2018/202) for constitution of State level committee for utilization of fly ash for reclamation of low lying area, and in stowing of abandoned mines/quarries.

The committee has also directed Regional officer CECB for providing list of locations where fly ash have been disposed unscientifically and creating threat to environment and agricultural fields. In accordance with list provided by CECB, committee has visited Gharghoda area on 25.08.2021.



Unscientific disposal of fly ash in low lying areas of Gharghoda is one the major issues taken in the case. The committee has visited few sites of fly ash dumping where proper strengthening and compaction of fly ash has not been ensured by M/s TRN Energy Pvt Limited resulting flow of fly ash in to adjoining fields and drains leading to River. The location of fly ash dumping exits in village Bhengari, Nawapara, Tenda and Kantagdeeh. The committee has visited newly constructed ash dyke near the power plant in Nawapara and observed flow of water along with side of ash dyke leading in the fields of farmers. The committee has also witnessed the breaching and damage, then accordingly instructed the villagers & farmers to submit damage claim application in the office of Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh. The format of application for submitting damage claim has also been provided to villagers/farmers with request to be present during hearing at Bilaspur.

M/s TRN Energy Private Limited (2x300MW) thermal power plant is located in village Bhengari, Nawapara (Tenda), Gharghoda, Raigarh. The plant started its commercial production in 2016 with an average generation of fly ash 4000 MT per day. The thermal power has generated approximately 2879126 MT fly ash during January 2016 to March 2021, out of which 58% (16,65,007 MT) has been disposed in low lying area of village Chote Gumda, Bade Gumda, Nawapara, Tenda and Baansmuda. As per detail submitted by the TPP the area used for disposal of fly ash is approximately 17.378 Hectare.

TRN power has created an ash dump as non-compliance of EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mud wall leading to fly ash flowing into adjoining field even situation to fly ash in to neighboring habitants.

On field visit on 24-25.08.2021 we have seen that by the side of State High way unscientific fly ash dump has been found , also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Another fly ash dump adjoining to Forest and nalah in personal land of some villager have been seen, due to cracks and land break /erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda .The top of Dump was at least 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoining field. To prevent the same no remedial measures has been taken by the PP. On road side flow we could see the flowing of fly ash in heavy

quantity. A pretty big area has been covered under flowing of fly ash from this Dump.

Representative from TRN admits all these OB dumps and contended that after obtaining the permission from land owner and Gram Panchayat , Fly ash dump have been made . Although they brought some papers and made attempt to show that they have not violated the Environmental conditions. but could not produce permission / consent of State Pollution Control Board. The thermal power plant has also submitted copy of study report conducted in 2018 by ISM Dhanbad which recommends about no metal contamination in ground water due to leaching from fly ash disposed in low lying area.

Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines give liberty to loose disposal of fly ash that's too above ground level.

The committee has also visited the Sites of Ash Disposal by M/s Mahaveer Energy & Coal Benefication Limited, Bio-mass based 12 MW power plant located in village Bhengari. The industry generates fly ash by burning of rice husk with coal and use to dump it unscientifically at two locations in village Bhengari. The committee has visited dumping sites on 25th August 2021 and found fly ash dumping in Bhengari village and also in the plant premises. The unscientific disposal of fly ash leads air borne during summer season and washed out during rainy season leading towards surface water body.



Although Environmental compensation has assessed but that will not exonerate these companies from their illegal activities. We relying on judgment rendered by Hon'ble the SUPREME COURT OF INDIA in the matter NIDHI KAIM Vs.STATE OF MADHYA PRADESH, Civil Appeal No. 1727 of 2016, Decided on : 13-02-2017 in which Hon'ble SC has observed that :-

“There is a saying – when wealth is lost, nothing is lost; when health is lost, something is lost; but when character is lost, everything is lost. This is attributed to Billy Graham, an American clergyman, born on 7.1.1918. One cannot be certain, about the above attribution, because the same lesson has been taught in India, since time immemorial, by parents and teachers. The issue in hand, has an infinitely vast dimension. If we were to keep in mind immediate social or societal gains, the perspective of consideration would be different. The submission canvassed, needs to be considered in the proper perspective. We shall venture to derive home the point by an illustration. We may well not have won our freedom, if freedom fighters had not languished in jails ... and if valuable lives had not been sacrificed. Depending on the situation, even civil liberty or life itself, may be too trivial a sacrifice, when national interest is involved. It all depends on the desired goal. The preamble of the Indian Constitution rests on the foundation of governance, on the touchstone of justice. The basic fundamental right, of equality before law and equal protection of the laws, is extended to citizens and non-citizens alike, through Article 14 of the Constitution, on the fountainhead of fairness. The actions of the appellants, are founded on unacceptable behavior, and in complete breach of the rule of law. Their actions, constitute acts of deceit, invading into a righteous social order. National character, in our considered view, cannot be sacrificed for

benefits – individual or societal. If, we desire to build a nation, on the touchstone of ethics and character, and if our determined goal is to build a nation where only the rule of law prevails, then we cannot accept the claim of the appellants, for the suggested societal gains. Viewed in the aforesaid perspective, we have no difficulty whatsoever, in concluding, in favour of the rule of law.”

We recommend that M/s TRN Energy Private Limited and M/s Mahaveer Energy & Coal Benefication Limited shall remove the fly ash dump as seen by the committee during their field visit within 4 months else those dumps shall be removed on the cost of those companies ,by State PCB and removed material shall be given to the concerned company for proper disposal as per law.

- 1.3. **Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks.**

Representative from JPL present in stake holders meeting has informed that 44,25,66 MT coal was transported in 2019-2020 & 40,24,274 in 2020-2021 through conveyor belt to JPL. The quantity provided is about 70 % of total coal mined from GPIV/2&3, however coal quantity received for GP IV/2&3 is only satisfies its 25% requirement. Rest of the requirement is met from other coal mines of Chhattisgarh and Orissa. State PCB shall verify correctness of the declaration by examining companies coal transportation records.

- 1.4 **Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pretreatment facility**

and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms. PHED should do the analysis (major cations/anions/trace elements) of the inlet and outlet sample of the Defluoridation plant installed in the region.

PHED Raigarh has informed that water testing laboratories are functional at Gharghoda and Raigarh for testing of drinking water quality of the area. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tape water in village and ensure quality of water in coordination with PHED Raigarh.

In order to ensure and verify the adequate quality of drinking water supply in Village Kondkhel, the committee has also visited Kondkhel village on 24.08.2021 along with applicant, representative of PHED and M/s Hindalco Limited. In the visit, water availability in hand pump as well as



taped water supply was found in order.. More over National Environmental Engineering Research Institute (NEERI) Nagpur set up network of observation wells in

Kondkhel village during 01-02 August 2021. These observation wells network consisting of India Mark II hand pump that are used to measure the ground water level. The ground water level from observation wells network was obtained using Electric Contact Gauze. The ground water level is obtained with respect to below ground level (BGL). The ground water extraction though hand pumps is used for domestic purposes only. The depths to ground water level (BGL-m) in the different observation wells varied between 5.24 m to 14.81 m during first week of August 2021.

Installation of Piezometers and monitoring: All the Coal Mine operators in the region need to install the Piezo meters as per the EC conditions. The installation need to be based on scientific lines and should take into account the depth up to which the mining is envisaged. Monthly monitoring of ground water level should be done by the mine operators.

- 1.5 **Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information.**

The committee during its field visits has observed installation of CCTV in coal mines and found its satisfactory operation its connectivity with CPCB and CECB should be made. M/s CSPGCL mines have installed two CAAQMS as per instruction and its connectivity with CPCB and CECB is in progress. CECB has also placed order for purchase and installation three CAAQMS in the area but as on 30.11.2021 no station was found operational.

M/s CSPGCL mine has installed two CAAQMS and remaining is not complied. May its installation takes time but on this excuse concerned proponents are not entitled for excuse. CECB to issue directions to concerned proponents for installation of CAAQMS and for CCTV connectivity with CPCB and CECB.

1.6 Proper repairing and maintenance of roads outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

Although Environmental Penalty / Fine has been assessed on Principal Secretary, PWD State of CG but he is not exonerated from complying earlier directions. He should comply those directions else shall be liable again for Penalty/Fine and other legal coercive measures.

1.7 Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case.

Although Environmental Penalty / Fine has been assessed on Principal Secretary, Health, State of CG but he is not exonerated from complying earlier directions. He should comply those directions else shall be liable again for Penalty/Fine and other legal coercive measures.

1.8 Strict vigilance by MOEFCC for green belt development compliance as per EC conditions.

Yes. On Papers although Project Proponents have tried to show that they are doing the plantation work , but there is distinction between plantation and Green belt development therefore as per mining plan coal mines shall develop green belt and on OB dumps shall grow prescribed species of tree and as per CPCB guide lines 2019 TPP shall develop green belt.

- 1.9 **We also recommend that no further conversion of UG mines to Open Cast mines be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major 4 noncompliance in pollution control and social cost (rehabilitation).**

Nodal officer of the committee has informed accordingly to Member Secretary (IA-Coal) Ministry of Environment Forests & CC vide letter number RD/BPL/NGT OA 104/2018/72 dated 18th September 2020. However Honorable NGT Order dated 27-02-2020 in Para 6 have observed; We are of the view that since serious deficiencies have been found and there is potential for damage to the environment as observed in the report, the 'Precautionary' and 'Sustainable Development' principles require that any further expansion or new projects in the area should be allowed after thorough evaluation only and mechanism for remedial measures should be in place, including oversight of measures for health mitigation.

2.0 Long-term measures

- 2.1 **Commissioning a detailed and comprehensive environmental load carrying capacity study to be carried out by a reputed environmental research institute over a 24 month period. Mode of commissioning of this study may please be decided by the Hon'ble NGT and necessary directions may please be issued.**

In the meeting of the oversight committee held on 16.10.2020, CPCB has advised CEGB to include the project cost in EC fund sponsored project. CEGB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh. The Technical and Commercial proposal was submitted by NEERI, Nagpur which is still under consideration in CEGB.

2.1.1 The study must cover dimensions of air pollution (especially PM2.5), water pollution and ground and surface water depletion, soil contamination, forest and biodiversity loss, and social and health impacts.

Action by CECB to ensure its incorporation during finalization of proposal submitted by NEERI, Nagpur for carrying capacity study.

2.1.2 Moreover, given the geography of the region, the study must assess the carrying capacity separately for two different sub regions: the northern Tamnar (coal mining related) block and Gharghoda block. Moreover, since Chhal open cast mine located in southern Dharamjaigarh block is located on the bank of Mand River and therefore in an eco-sensitive zone, a baseline study of this region may also be carried out. The southern Tamnar subregion has already been studied for environmental load carrying capacity by IIT Kharagpur (report submitted to CECB in 2018) and it has already recommended strict regulation of any further industrial development in particular parts of the sub-region through a high-level committee.

Action by CECB to ensure its incorporation during finalization of proposal submitted by NEERI, Nagpur for carrying capacity study.

2.1.3 CECB shall ensure that within 4 month the studied for environmental load carrying capacity pending with it shall be allotted according to legal process and allottee should ensure that after allotment study should be completed and report submitted within 24 months. Both of them should keep in mind that default if caused then defaulter shall be liable under legal consequences.

- 2.2 **To reduce the pollution and other impacts caused by road transport of coal and other minerals, directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail or closed conveyor belt only.**

IRCON International Limited, that 44 Km Railway line work from Kharsia – Gharghoda – Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. Rail line work from Karichhapar – Kurumkela – Dharamjaygarh will be completed by December 2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 03 coal siding and made 01 siding operational, 02 more siding will be made operational by December 2021. As per data received from major mining company of the area i.e. SECL, it is reported that 35% coal transport increase has been observed in comparison to last financial year 2019-2020. It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2021.

- 2.3 **Condition of greenbelt development may be incorporated at TOR stage of EC application to ensure that greenbelt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by MOEFCC. Further, while granting TOR, EAC should specify the location of the greenbelt to provide buffer between coal mine and human settlements, and specify a sufficient width of the greenbelt for the same.**

Copy of Hon'ble NGT order has been provided to MoEF&CC through its representative of the committee.

2.4 Ministry of Coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and back-filling as per fly ash notification of 2009.

In this context, Member Secretary, CGEnvironment Conservation Board, Raipur, apprised us that State level committee has been constituted a long back and now has been reconstituted on 24.01.2019. This reconstituted committee is termed as monitoring committee constituted by Chhattisgarh Government to monitor the utilization of Fly ash in accordance to MoEF&CC notification SO 2804 (E) dated 03.11.2009.

The committee seems to be responsible for obtaining specification of quality of fly ash from expert committee referred in sub paragraph (10) for this purpose. As per sub paragraph (10) ministry of coal for this purpose shall constitute an expert committee comprising of representative from fly ash unit, Department of Science and Technology, Ministry of Science and Technology, Director General of Mines (DGMS), Central Mine Planning and Design Institute Limited (CMPDIL), Ministry of Environment Forests & CC, Ministry of Power, Ministry of Mines and Central Institute of Mining and Fuel research (CIMFR).

Hon'ble NGT in its order dated 24.06.2021 on point no 6 has considered the field observations made in report dated 17.03.2021 about violation found on the JPL, JSPL, Hindalco Industries Limited, Mahaveer Energy and coal Benefication and M/s Ambuja Cement and M/s CSPGCL coal mines.

The com.mittee has addressed all issues during its site visit on 24th and 25th August 2021 and concerns were given opportunity of hearing on 14th and 15th September 2021.

The following observations made in the report dated 17.03.2021 has been found resolved.

1. Fly ash dumping with in GP IV/01, outside mine void
2. Fly ash dumping with in GP IV/02 & 03, outside mine void
3. Leakage of fly ash slurry from JPL ash dyke
4. Fire in coal mine/coal dump Gare Pelma IV/02&03
5. Discharge of untreated waste water from M/s Hindalco Industries Limited Coal mine
6. Inadequate quality of drinking water supply to Kondkhel village
7. Making abandoned mines available for disposal of fly ash

FOLLOWING ARE THE MAJOR RECOMMENDATION TO MEET OUT THE PROBLEM OF POLLUTION DUE TO TRANSPORTATION AND FLY ASH DISPOSAL:-

1. Coal brought from outside CG to Tamnar and Gharghoda area by TPP should be carried by train upto nearest Railway siding, may it be booked from any Rly station. From Rly siding to TPP coal may be carried through mechanically operated closed Goods Vehicle or through manual operated Tarpoline covered Goods vehicle. If any exigency arises State PCB may for limited period relax this condition.
2. Coal bought from inside CG to Tamnar and Gharghoda area by TPP should be carried by train upto nearest Railway siding if train connectivity is available . From Rly siding to TPP coal may be carried through mechanically operated closed Goods Vehicle or through manual operated Tarpoline covered Goods vehicle. If train connectivity is not available coal may be carried through mechanically operated closed Goods Vehicle or through manual operated

Tarpoline covered Goods vehicle. If any exigency arises State PCB may for limited period relax this condition

3. Fly ash is a byproduct of TTP and produced as a result of Coal/lignite Burning. Fly ash is hazardous to environment. For its disposal MoEF has from time to time issued notifications and as per notification 2009 one of the mode is stowing of mines using at least 25% of fly ash on weight to weight basis of the total stoving material used and 25% of fly ash on volume to volume basis on the total material used for external dump of over burden and same percentage in upper benches of back filling of open cast mines ,this utilization is to be done under the direction of DGMS.
4. Coal mines although are legally and morally bound to accept minimum above quantity of fly ash from TPP. To achieve this target it is recommended that when coal is sold by the coal company to TPP there should be a condition in the agreement to sell that at least 25 % Fly Ash of the coal sold, should be accepted by the coal company (Seller) from TPP (purchaser) failing which coal company shall be liable for civil action and other legal measures.
5. Before approval of mining plan by the approving authority, approving authority should ensure incorporation of fly ash disposal as required under notification 2009 clause 8(i) and 8(ii).
6. Till carrying capacity report comes, after taking due care to environment, authorities may grant mines, lease, consent permissions, EC etc. After receipt of the carrying capacity report, the same should also be taken as Governing factor.

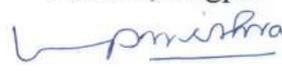
DIRECTIONS TO NODAL OFFICER

Nodal Officer is authorized to file status report (compliance status as on 30-11-2021) along with exhibits before the Hon'ble National Green Tribunal on or before 15-12-2021 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. Nodal Officer shall send copy of the report to the authorities who are required to implement the recommendations of the Committee to enable such authorities to file their response, if any, before the next date. Nodal officer shall send copy of minutes under which assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law to Statutory State Board. Nodal Officer shall also send copy of minutes of meetings in which Penalty/ Fine have been assessed on Principal Secretary, PWD, Principal Secretary Health, Govt. of CG to statutory State Board for taking action. Nodal Officer shall if required hand over all paper which we received during working of Oversight Committee to Hon'ble NGT, further authorized on behalf of the committee to do all those works which on authorization can be done by him.


(Shri. S.K. Verma)
Regional Officer,
CECB, Raigarh


(Dr. P. R. Pujari)
Senior Principal Scientist,
NEERI, Nagpur


(Dr. Bhardwaj Adiraju)
Scientist 'C'
MoEF&CC IRO- Raipur


(Dr. R. P. Mishra)
Scientist "D"
CPCB, Bhopal


(Justice V.K. Shrivastava)
Chairman
07.12.2021



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First Meeting
Date- 19th July 2021

Minutes of the meeting of Oversight Committee
OA No. 104/2018 Shivpal Bhagat & Ors. Vs Union of India & Ors.

Hon'ble NGT vide its order dated 24.06.2021 in OA No 104/2018 has directed that the Oversight committee will now be headed by hon'ble Justice V. K. Shrivastava, former Judge of Chhattisgarh High Court. The copy of Hon'ble NGT order dated 24.06.2021 was provided to Hon'ble Justice V. K. Shrivastava at Bilaspur by CPCB and briefed about the content of case and its status as on date. As per direction received meeting of the Oversight committee was organized on 19.07.2021 at Bilaspur. The meeting was attended by all the members of the committee detailed as under-

1. Justice V. K. Shrivastava , Chairman
2. Dr. Paras Ranjan Pujari, Principal Scientist, NEERI, Nagpur
3. Dr. Sharachchandra Lele, Distinguished Fellow, ATREE, Bengaluru
4. Dr. R. P. Mishra Scientist "D" Central Pollution Control Board, Bhopal
5. Dr. Purussottam Sakhare, Scientist 'D' Regional Office, MoEF&CC, Nagpur
6. Sh. P. K. Gupta, DC, Raigarh
7. Sh. S.K. Verma, Regional Officer, CECB, Raigarh

On 24-06-2021 Hon'ble NGT considered the Committee's report filed on 16-04-2021 and passed order on 24-06-2021 based on Committee's field visit, status of compliance as on 15-03-2021, field observations with recommendations, and response of applicant. The relevant portion of the order enshrined in para 8 and 9 of the order are as below:

"8. We have given due considerations to the report of the Committee as well as suggestions made on behalf of the applicants. The recommendations of the committee need to be accepted. State Board should prepare list of areas where the unscientific disposal of fly ash has been taken place and generate data about the quantity of the coal Mined used in the industries and available for TPPs. Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipatra to Milupara, disposal of fly ash in abandoned coal mines and constitution of state level committee to look into scientific utilization of the fly ash. Taking such steps is undoubtedly necessary for protection of the environment. The



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suggestions of the applicants reproduced above also need to be considered by the Oversight Committee.

9. The Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law. The Committee may continue to oversee remedial measures in terms of directions of this Tribunal. The Committee may undertake field visit and also interact with all the stakeholders. "The Committee will be at liberty to take assistance from any other Expert / Institution."

The committee has discussed point wise progress made in short term and long term action plan being implemented in the matter. Chairperson of the committee has highlighted the key points to be focused on priority by concern departments. The key points of the meeting are as under-

1. Part-A Short term Action Plan :-

- (1) Whether CECB amended the consent conditions of all TPP and Coal mines. **(Action by CECB)**
- (2) Whether SECL Chaal (OC), Monet Ispat, M/s Ambuja Cement are accepting fly ash for disposal through OB and back filling. **(Action by CECB)**
- (3) Whether CECB constituted State level Committee to decide the mode and quantity of fly ash to be disposed in working/abandoned mines/ Quarries in the State. **(Action by CECB)**
- (4) Whether as per precondition of SOP Power plant/land owner / agency have obtained statutory permission from regulatory authority SPCB. **(Action by CECB)**
- (5) Whether CECB has submitted list of the location of low lying areas being used or earlier used for unscientific disposal of fly ash for which permission has been granted by local administration after getting NOC from CECB. **(Action by CECB and DC Raigarh- All gram sarpanch of the area in question may be called in stake holder meeting)**
- (6) Whether complete supply of coal from Palma 1V/2&3 (SECL) have been made to JPL and JSPL through existing closed conveyor belts in 2019-20 and 2020-21. **(Action reported by CECB- Yes 44,25,66 MT in 2019-2020 & 40,24,274 in 2020-2021)**

N. J. Srinivasan

- (7) Whether Hindalco is providing tap water in villages Kondkel in co-ordination with PHED. (Action by Hindalco and PHED, **Representative from HINDALCO and PHED may be asked to be present in the meeting of committee with stakeholders.**)
- (8) Whether information has been collected regarding water recharge provided by coal mines while obtaining NOC from Central Ground Water authority. (Action by CECB- **Request has been sent to Regional Director, Central Ground Water Board (CGWB), Raipur on 18.06 .2021. Response from CGWB is awaited. RD, CGWB, Raipur may be asked to be present in the meeting of committee with stakeholders.**)
- (9) Whether CCTV has been installed by M/s HINDLCO Industries, SECL Gare Palma IV/2 & 3, SECL Chaal, SECL, Gare Palma IV/1. (Action by CECB- **CCTV installed in all mine except Gare Palma IV/1 which is not in production as on date**)
- (10) Whether CAAQMS has been installed in all coal mines having its connectivity with CPCB/CECB servers. (Action by CECB- **CAAQMS purchase order placed by CECB**)
- (11) Whether IRCON has completed work, 14 KM rail line from Gharghida-Bhalumunda-Gare Palma and 5 number of coal siding in Tamnar and Gharghoda area. (Action by **IRCON and physical verification by CECB, Representative from IRCON may be asked to be present in the meeting of committee with stakeholders.**)
- (12) Whether proper repair and maintenance of Road have been done inside and outside the mine area by PWD and mining companies. (Action by **PWD for outside mining area**)
- (13) Whether proper and free health facilities with multispecialty treatment system have been provided in all coal mine adjacent villages. (Action by **DC Raigarh- Organization of health camps have been started.**)
- (14) Whether MoEF & CC has submitted compiled response received from coal mines relating to Green Belt developments as per EC conditions. (Action by **MoEF&CC Nagpur**)
- (15) Whether after September 2020 any UG mines has been converted to OC coalmines. (Action by **MoEF&CC Nagpur**)
- (16) What progress has been made for commissioning a detailed and Comprehensive environmental load carrying capacity study. (Action by **CECB- Offer called from NEERI. 1st round of technical meeting held on 02.08.2021**)



- (17) Whether in 2020-21 total transportation of coal to TPP have been made by coalmines through Rail or closed conveyor belt. **(Action by All Coal Mine – follow up by CECB)**
- (18) Whether strict monitoring and follow up action by MoEF & CC for green belt development compliance has been made, if so, its result. **(Action by MoEF&CC, Nagpur)**
- (19) Whether CMD SECL issued any permission for utilization of abandoned mines for disposal of fly ash. (**Action by SECL- Yes copy of the letter to be provided by CECB)**

2. PART-B Long term Action Plan:-

Hon'ble NGT has directed that the Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law. The National Green Tribunal Act 2010 does not define compensation, however section 15 authorizes the tribunal subject to sub sections (2) to (5) to provide by an order (a) relief and compensation to the victim of pollution and other environmental damage arising under the enactments specified in the schedule 1 (including accident occurring while handling any hazardous substance) (b) for restitution of property damaged (c) for restitution of the environment for such area and areas. State Pollution Control Board having various functions has also been empowered to do such other things and to perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purpose of The Air (Prevention and Control of Pollution) Act 1981. Although CPCB has drawn and issued methodology for assessing Environmental Compensation and action plan to utilize the same but that does not mean that it restricts assessment of compensation for victim of pollution relating to its person and property. In view of the above assessment of compensation as desired by Hon'ble NGT does not have any restricted meaning. For calculating Environmental compensation one of the main factor is period during which the violation of PC continued or still continuing and for that it is necessary' to know the result of earlier directions issued by the committee on field observations.

- (1) Whether JSPL cleaned up the unauthorized dump. Whether JSPL complied the process of covering of fly ash with overburden /sweet soil and ensured daily watering or covering up the fly ash during back filling process. (GP IV/I) **(Action by CECB- reported complied on 23.06.21)**



- (2) Whether JPL cleaned up the unauthorized dump and disposed the fly ash in the mine void through the back filling process (GP IV /2-3) **(Action by CECB- reported complied on 23.06.21)**
- (3) Whether directions issued seeing condition of leakage of fly ash dyke IIA and IIB of JSPL have been complied with or not. **(Action by CECB- Dyke Stability report submitted)**
- (4) TRN power has created an ash dump violating EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mud wall leading to fly ash flowing into adjoined field even situation to fly ash into neighboring habitants. Whether further dumping is continuing, whether regular watering is done in mud dyke. Whether fly ash dumping caused injury to any person or any property. Whether fly ash dump was in his own land or in the land of others. **(Action by CECB- reported not complied on 23.06.21)**
- (5) Mahaveer Bio Energy has created an ash dump behind its premises in violating the SOP and EC even creating a public hazard. Whether dump has been made in private land of villagers, whether improper dumping has been removed. **(Action by CECB- compliance awaited)**
- (6) Whether to save hazard from fire which took place in Gare Palma IV /2-3 (SECL), SECL arrested all fire within 500 m of Kusumpalli and Sarasmal Village. **(Action by- SECL & DGMS- Report is awaited. Representative from SECL & DGMS may be asked to be present in the meeting of committee with stakeholders.)**
- (7) M/s Hindalco Industries Ltd. violating EC condition have drained untreated water at Gare Palma IV/4 in to a drain leading to agriculture field, whether still continuous, whether it caused any damage to agricultural field. Whether any other way out has been made by the industry. **(Action by CECB- Representative from HINDALCO may be asked to be present in the meeting of committee with stakeholders.)**
- (8) Whether OB dump by CSPGCE mine at Gare Palma sector 3 on both sides of public road was according to mining plan, if not what action has been taken by CECB and MoFF & CC. Whether any one suffered any loss from dump. **(Action by- CECB and MoEF&CC Nagpur)**
- (9) What was the outcome of sample analysis of sample collected from River Kelo. **(Action by NEERI- Nagpur)**



3. PART-C Agenda of Field Visit:-

- (1) To interact with all stake holders and also to consider suggestions of the applicants reproduced in Hon'ble NGT order. **(Action by CECB to call applicant for meeting on 23.08.2021 (F/N) and Stake holders on 23.08.2021 (A/N).**
- (2) Collection of data for assessment of Environmental Compensation. **(Joint action by DC, Raigarh, CECB and CPCB)**
- (3) To collect information for drawing assessment of loss to person and property. **(Action by DC, Raigarh)**
- (4) CPCB if completed, compilation of list of areas where unscientific disposal of fly ash has taken place and generated data about the quantity of the coal mined; used in the industries and available for TPPs. shall submit the same forth with. **(Action by CPCB on receipt of report and data from CECB)**
- (5) Whether Road from Raigarh to Dharamjaygarh and from Punjipatra to Milupara have been constructed **(Action by PWD- Report to be presented in Stake holders meeting)**
- (6) To collect information regarding adjoining villages adjoining the mines area, and TPPs from Revenue authority and also to collect information regarding payment of any damage to any villagers due to fly ash dumping and breach of other EC. **(Action by DC, Raigarh to be presented in Meeting)**
- (7) Applicants if so desired may show polluted areas. **(Action by CECB- To inform applicants about field visit of the committee on 24th August 2021)**
- (8) Already visited area required to be revisited for confirmation of continuing violation or redressed thereof. **(Field Visit scheduled on 24-25th August 2021)**
- (9) To verify whether CECB complied all the directions given by the committee and whether concerned have obeyed the same. **(Action by CECB- onward directions/letters issued to non-compliances further verification report submitted on 23.06.2021)**



In compliance of point 1-9 from Part-3, it is decided to conduct field visit during 23-26th August 2021 by the Oversight Committee. The Oversight Committee will meet with applicants on 23rd August 2021 from 11 AM to 01 PM and with stake holders from 03 to 05 PM. All the concerned department listed in Part 01 & 02 will compile the related status report to place before Oversight Committee. The representatives of the concerned departments are also to be present during field visit on 24th & 25th August 2021. Regional Officer, CECB, Raigarh will co-ordinate with applicants and stakeholders and ensure their presence in meeting. He will also finalize meeting venue in consultation with DC, Raigarh.

The meeting ended with thanks to Chairman.

(Dr. Sharachchandra Lele)
Distinguished Fellow,
ATREE Bengaluru

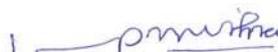


(Dr. P.R. Pujari)
Senior Principal Scientist,
NEERI, Nagpur

(Dr. P. R. Sakhare)
Scientist-D, MOEF&CC, Nagpur



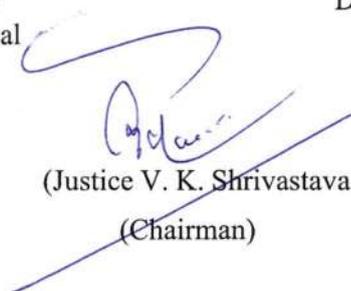
(Shri. S.K. Verma)
Regional Officer, CECB, Raigarh



(Dr. R. P. Mishra)
Scientist "D"
CPCB, Bhopal



(Sh. P. K. Gupta)
Deputy Collector Raigarh



(Justice V. K. Shrivastava)
(Chairman)



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The meeting ended with thanks to Chairman.

(Dr. Sharachchandra Lele)
Distinguished Fellow, ATREE Bengaluru



(Dr. P. R. Sakhare)
Scientist-D, MOEF&CC, Nagpur

(Dr. P.R. Pujari)
Principal Scientist, NEERI, Nagpur

(Shri. S.K.Verma)
Regional Officer,CECB, Raigarh

(Dr. R. P. Mishra)
Scientist "D"
CPCB, Bhopal

(Sh. P. K. Gupta)
Deputy Collector Raigarh

(Justice V. K. Shrivastava)
(Chairman)



2nd MeetingDate- 23rd - 26th August 2021**Minutes of the meeting of Oversight Committee****OA No. 104/2018 Shivpal Bhagat & Ors. Vs Union of India & Ors.**

Hon'ble NGT vide its order dated 24.06.2021 in OA No 104/2018 has directed that the Oversight committee will now be headed by Hon'ble Justice V. K. Shrivastava, former Judge of Chhattisgarh High Court. 1st meeting of the Oversight Committee was held on 19.07.2021 at Bilaspur and was attended by all members.

In accordance with decision taken in 1st meeting field visit of Raigarh was conducted during 23rd to 26th August 2021. Sh. Sharachchandra Lele, ATREE, Bengaluru could not attend the meeting due to health issue and MoEF & CC, Regional Office, Nagpur has nominated Dr. Bharadwaj Adiraju, Scientist C, IRO, Raipur in place of Dr. Purussottam Sakhare, Scientist "D" Regional Office, Nagpur. As per pre decided schedule committee had meeting with applicant and stakeholders on 23.08.2021, Field visit on 24-25.08.2021 and concluding meeting with concerned departments on 26.08.2021. The meeting and field visit was attended by members as under-

1. Justice V. K. Shrivastava, Chairman
2. Dr. Paras Ranjan Pujari, Senior Principal Scientist, NEERI, Nagpur
3. Dr. R. P. Mishra Scientist 'D' Central Pollution Control Board, Bhopal
4. Dr. Bhardwaj Adiraju Scientist 'C' MoEF&CC, IRO Raipur
5. Sh. P. K. Gupta, Dy. Collector, on behalf of Collector Raigarh.
6. Sh. S.K. Verma, Regional Officer, CECEB, Raigarh

The committee has discussed point wise progress made on the issues included in the MOM of 1st meeting and also verified the status in field during 24 -25th August 2021. The points observed during meetings and field visits are as under-



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1. Meeting with Applicant and Stake Holders (23rd August 2021) -

The Committee has organized meeting in the Collector Office to hear applicant and stake holders on the various issues emerged from previous reports submitted and subsequent orders passed by Hon'ble NGT.

The applicants and villagers were heard by the Oversight Committee on 23rd August 2021 (F/N). The list of applicant and other villagers present in the meeting is as under-

01	Sh. Shivpal Bhagat	Applicant	02	Ms. Rinchin	Applicant
03	Smt. Janki Sedan	Applicant	04	Shri Ram Gupta	Applicant
05	Sh. Tuleshwar Baisnav	Bhengari	06	Sh. Kanahi Ram Patel	Villager
07	Sh. Dukkalu Ram	Sarasmal	08	Sh. Somnath Patel	Sarasmal
09	Sh. Karam Singh	Sarasmal	10	Sh. Mohan Lal	Millupara
11	Sh. Rathia	Kausampalli	12	Sh. Mohanlal	Millupara
13	Sh. Hemsagar	Salihamatha	14	Sh. Prahlad Sidar	Regaon
15	Sh. Mainsingh	Ukarpalli	16	Sh. Nohar Chauha	Narmunda
17	Sh Chedilal Chauhan	Ukarpalli	18	Sh. Teerthanand Patel	Kondkhel
19	Sh. Manhara	Kondkhel	20	Smt. Pushpa	Millupara
21	Sh. Khusiram	Millupara	22	Sh. Salikram	Millupara
23	Sh. Mayaram	Narmunda	24	Sh. Bharatlal Singhar	Nagarmunda

The issues raised by the applicants / villagers were about mishandling of fly ash by Jindal Power Limited (JPL) in GP IV/01, GP IV/02 and GP IV/03 mines. The applicants have also raised the issue of fly ash leakage from Ash Dyke of JPL and unscientific dumping of fly ash in low lying areas by M/s TRN Energy Pvt. Limited and Mahaveer Energy & Coal Benefication Limited. Also applicants made brief submissions on their suggestions on action suggested before the Hon'ble NGT.

The oversight committee suggested to the villagers and applicants for submission of their claim in writing about damage occurred due to cause informed in the meeting. The claims were to be submitted in the office of Regional Officer, Chhattisgarh Environmental Conservation Board, Raigarh on before 10th September 2021 and claimants to be physically present for hearing before Oversight Committee on any day during 14th to 16th September 2021 at Bilaspur.

The oversight committee also heard the stakeholders in A/N on 23rd August 2021 for submission of their compliances on the issues raised by applicants/ villagers. The list of stakeholders present in the meeting is as under-

N. J. P. P.

S. No.	Name	Industry / Department
01	Sh. Sanjay Singh	EE, PHED, Raigarh
02	Sh. D P Verma	AE, PHED, Gharghoda
03	Sh. S M Minalza	GM, IRCON, Bilaspur
04	Sh. A K Singh	Dy. GM, IRCON, Bilaspur
05	Sh. B R Naik	Managar, IRCON, Bilaspur
06	Sh. Manoj Kumar Sahu	Dy. Director, DGMS, Raigarh
07	Dr. P K Naik	CGWB, NCCR, Raipur
08	Sh. G. Shreenath	CGWB, NCCR, Raipur
09	Sh. Vikrant Singh	CGWB, NCCR, Raipur
10	Sh. Sandeep Markan	Assistant Manager, SECL, Raigarh
11	Sh. S P Ahmad	SECL, Raigarh
12	Sh. N Rukmangad	GP IV 2&3 OCM, Raigarh
13	Sh. Sachin Sharma	M/s HINDLCO Mines, Raigarh
14	Sh. Sharanappa Kambali	M/s Ambuja Cement Ltd
15	Sh. Prahlad Prasad	M/s TRN Energy (P) Limited
16	Sh. Vikash Singh	M/s TRN Energy (P) Limited
17	Sh. S K Singh	GM,ENV, JPL, Tamnar, Raigarh
18	Sh. D K Bhargava	VP, JPL, Tamnar, Raigarh
19	Sh. C N Singh	ED, JPL, Tamnar, Raigarh
20	Sh. D P Singh	AVP, ENV, JSPL, Raigarh
21	Sh. B S Gupta	AGM, JSPL, Raigarh
22	Manager HR	M/s Mahaveer Energy & Coal Benefication
23	Sh. M R Bagde	EE, Civil, CSPGCL, Raipur
24	Sh. Mukesh Saxena	SVP, CSPGCL Mines, Raipur
25	Sh. S K Pal	VP, CSPGCL Mines, Raipur
26	Sh. Sanjeev Kumar	VP, CSPGCL Mines, Raipur
27	Sh. Rakesh Pandey	M/s Nav Durga Fuel (P) Limited
28	Sh. R N Jha	M/s Ambuja Cement limited
29	Sh. M L Sahu	M/s Nalwa Steel & Power Limited
30	Sh. Ganesh Mittal	M/s Anjani Steel, Raigarh



- Representative of CGWB, Raipur Sh. Srinath Scientist "B" was present during meeting and assured the committee to provide the details about water recharge points provided by coal mines while obtaining NOC from CGWA in the 1st week of September 2021.
- M/s IRCON was to complete the work of 14 KM rail line from Gharghoda-Bhalumunda-Gare Palma and 5 number of coal siding in Tamnar and Gharghoda area.
The representative from IRCON International Limited present in the meeting has informed about extension of target date up to December 2021 for completion of the project. The committee has asked M/s IRCON International Limited to submit the statement in writing.
- TRN power has created an ash dump violating EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mud wall leading to fly ash flowing into adjoined field even situation to fly ash into neighboring habitans. The representative of M/s TRN Energy Pvt. Ltd was present in stakeholder meeting, who stated that after NOC and agreement of land owner for disposal of fly ash in low lying area disposal has been made. As informed by the industry further disposal of fly ash in low lying area is not in process. The industry has constructed new flyash dyke for further disposal of fly ash in future.
- Free medical health facility was to be provided by State Government to villagers residing near to coal mining area. In this context it was informed that State Government has organized health check camp in August 2021 in all coal mine adjacent villages.
- The representative of M/s Mahaveer Energy & Coal Benefication Limited was present in stakeholder meeting who stated that after obtaining NOC and agreement of land owner for disposal in low lying area disposal has been made. As informed by CECB disposal of fly ash in low lying area is still in process and at present fly ash is being stored in the plant premises.
- Complete supply of coal to be made to JPL from Gare Palma 1V/2&3 (SECL) shall be made through existing closed conveyor belts. Representative from JPL has informed that 44,25,66 MT coal was transported in 2019-2020 & 40,24,274 in 2020-2021 through conveyor belt to JPL. The quantity provided is about 70 % of total coal mined from GPIV/2&3, however coal quantity received for GP IV/2&3 only satisfies its 25% requirement. Rest of the requirement is met from other coal mines of Chhattisgarh and Orissa.



- The representative of JPL has also informed that they have cleaned up the stored dump and disposed the fly ash in the minevoid through the back filling process (GP IV /2-3). It was also informed that Regional Office, CECB, Raigarh has inspected the site and submitted his report for the same.
- The concerned officers from JPL has stated that they received CECB direction for leakage of fly ash dyke IIA and IIB and they submitted stability report for the same to CECB.
- The representative of JSPL stated that they have cleaned up the stored dump of fly ash and disposed the fly ash in the minevoid through the back filling process (GP IV /01). It is also stated that Regional Office, CECB, Raigarh has inspected the site and submitted his report for the same.
- In the meeting of oversight committee held on 15-17.03.2021 Executive Engineer PWD, Raigarh has informed that main highway connecting Raigarh to Dharmajaygarh has now been shifted to NH Scheme. Stretch from Chhal mines to Gharghoda has been approved for two lane and its strengthening. Stretch from Punjipathra to Milupara via Tamnar (25Km) and stretch from Millupara to Lailunga not yet approved.

Since the actual process of constructing the NH will take at least two years, EE PWD, Raigarh has been instructed to identify badly damaged patches in this stretch and prepare a budget for obtaining approval and act upon immediately (within three months). As far as construction of other stretches are concerned PWD shall take highest priority because these are stretches with heaviest traffic density.

As EE, PWD, Raigarh was not present in the meeting on 23.08.21 the committee has instructed him to ensure his presence before committee on 26.08.2021.

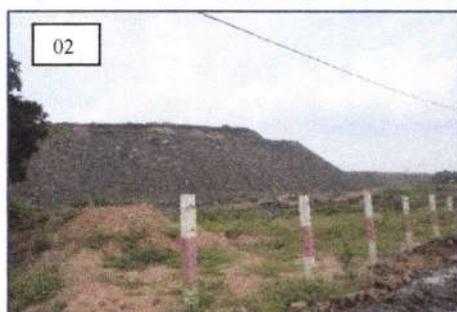
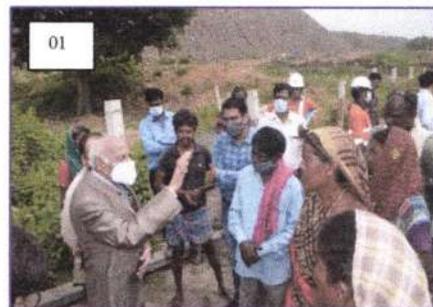
- The representative form M/s Hindalco Industries Ltd. informed that drain leading to agriculture field from Gare Palma IV/4 has been closed and compliance report submitted to CECB.

We also interacted with stake holders present, on remedial measures on pollution, violation done in past and still continuing and on other related matters.



2. Field Visit of Tamnar Area (24.08.2021)

2.1 Visit of CSPGCL Coal Mines (Gare Pelma Sector –III) - The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB dump on one side Pic-02 of the road was located at approximately



80m distance from road side but OB dump all along road was not within prescribed distance, even on many places it is adjacent to road. Dump process is still continuing. We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Villagers assembled there and applicant's representatives

have stated there that because of dump and traffic in road this place has been declared as accidental zone and within a year around 10 persons have been killed in accident. Road condition is very bad. Although in one side Provision of check drains have been seen but appears to be not having width of adequate size, the sludge or waste materials along with water is passing through the agricultural fields and is terminating in nallah. (O.B. Dump in CGSPGCL mine at Gare Palma sector 3 observed on field visit during 15-17 March 2021 on both sides of Public Road). This public road is within the mining area and as stated and shown by company officers present there as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not complied the directions of notification 2009. Al though in one side Provision of check drains have been seen but in other side there appears no provision of check drains and garland drains have been made to ensure that the sludge or waste materials does not go into the nullah.

For environmental compensation and for remedial measure CGSPGCL, to be heard on Maintenance of Public Road, on illegal OB dump, nonuse of fly ash, non-construction of garland drains and proper settling tanks, Sludge and waste materials passing through agricultural field destroying crop production going to Nallah.

N. J. Srinivas

The mine authorities were instructed to present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

2.2 Visit of M/s Ambuja Cement Coal Mines (Gare Pelma Sector- IV/8)- Mine site was

visited on 24.08.2021 by Chairman and members of the new committee. During visit of the committee OB dumping was observed on both side of the road (Pic-03). This public road is passing through the mines area and utilized by public, Mines operator and coal transporters. No garland drains with proper settling tanks have been constructed. 25% of fly ash as required in 2009 notification for OB dump has not been done. We saw a number of coal loaded trucks passing through this road, Road condition is very bad. Ambuja Cement Ltd to be heard on Maintainance of Public Road, on illegal OB dump, no use of flyash, non-construction of drains and proper settling tanks. The mine authorities were instructed to present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.



2.3 M/s Hindalco Mine drain and water supply in Kondkhel Village- The committee

during its meeting on 17.03.2021 has found discharge of water from mine of M/s Hindalco Mines (Gare Palma IV/4 & IV/5) leading to agriculture fields. The committee has recommended for inspection of treatment facility available with mine and collection of water sample to ensure that it meets discharge quality standards set in EC/Consent. CECB has inspected the mine and submitted the report. As no sample was collected during inspection, the oversight committee once again visited the site on 24.08.2021 and collected the water sample for analysis (PIC-04). The committee has instructed the Regional Officer, CECB to present the sample analysis report during hearing meeting at Bilaspur.



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In order to ensure and verify the adequate quality of drinking water supply in Village Kondkhel, the committee has also visited Kondkhel village on 24.08.2021 along

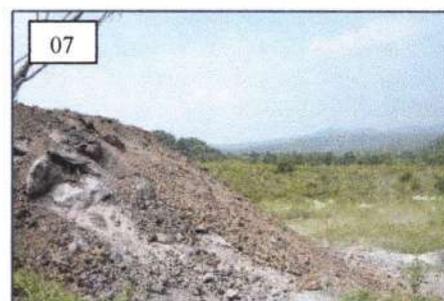


with applicant, representative of PHED and M/s Hindalco Limited. In the visit, water availability in hand pump as well as taped water supply was found in order. (PIC-05 & 06). More over National Environmental Engineering Research Institute (NEERI) Nagpur has set up network of observation wells in Kondkhel village during 01-02

August 2021. These observation wells network consisting of India Mark II hand pump that are used to measure the ground water level. The ground water level from observation wells network is obtained using Electric Contact Gauze. The ground water level is obtained with respect to below ground level (BGL). The water level measured as below ground level has been converted to water level (above mean sea level) by subtracting the water level (BGL) from the reduced level (RL) of the well. The ground water extraction though hand pumps is used for domestic purposes only. The depths to ground water level (BGL-m) in the different observation wells varied between 5.24 m to 14.81 m during first week of August 2021.



- 2.4 Visit of Gare Palma IV/01 OC Mines- The captive power plant of M/s Jindal Steel & Power Limited, Dongramau has permission for disposal of its fly ash in Gare Palma IV/01 open cast mines. During visit of the committee on 24th August 2021 it was observed that fly ash mixed with OB being disposed near Nalah passing in mining lease area. (PIC- 07) The distance between disposal site and Nalah seems to be less than 500m and during rainy season fly ash may take a way to River Kelo through Nalah. The issue has been considered as negligence in selection of site

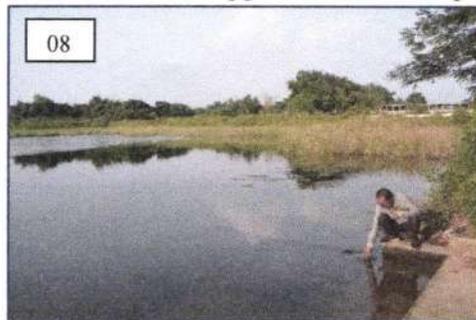


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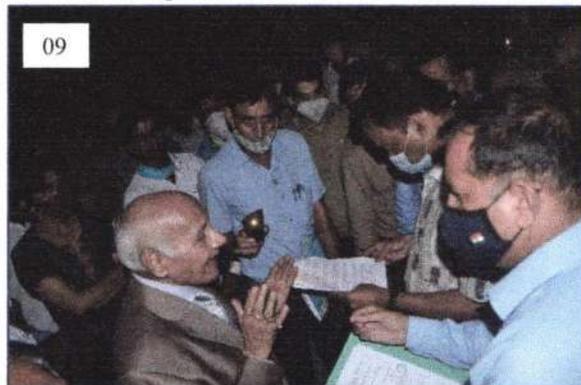
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and M/s JSPL has been directed to be present in hearing meeting on 15.09.2021 at Bilaspur with all documents EC, Consent and quantity of fly ash disposed and remediation proposal if any.

2.5 Visit of Sarasmal Village- The committee has also visited village Sarasmal near Gare Palma IV/02 & 03 Open cast mines of SECL as first applicant Sh. Shivpal Bhaghat belongs to this Village. Gare Palm IV/02 & 03 OC mines are not operational since long and also not found operational during visit. The committee has also visited the pond from where water is being used by villagers and for irrigation purpose. The applicants informed about presence of Arsenic and other metals in the water making it harmful for irrigation and for human body. The committee has instructed CECB for collection of onsite water samples for analysis by EPA approved laboratory and submit the report during hearing meeting at Bilaspur. (PIC-08)



2.6 Visit of JPL Ash Dyke- It was reported in over sight committee visit on 17.03.2021 about leakage of fly ash slurry from ash dyke of M/s Jindal Power Limited. The committee had suggested M/s JPL to conduct study through a research organization of national repute to determine the stability of the existing ash dyke and take measures required to strengthen as needed. In order to take the status, the oversight committee once again visited the sight on 24th August 2021. Although spot shown by the officials of the JPL we could not observe leakage on that area from the dyke but we are not sure about other part of the dyke. The committee has directed M/S JPL to be present in hearing meeting at Bilaspur with stability report of ash dyke, relating to our earlier field visit directions. (PIC-09)



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3. Field Visit of Gharghoda Area (25.08.2021)

3.1 Visit of sites used for disposal of fly ash in low lying area- Unscientific disposal of fly ash in low lying areas of Gharghoda is one the major issues taken in the case. The committee has visited few sites of fly ash dumping where proper strengthening and compaction of fly ash has not been ensured by M/s TRN Energy Pvt Limited resulting flow of fly ash in to adjoining fields and drains leading to River. The location of fly ash dumping exits in village



Bhengari, Nawapara, Tenda and Kantagdeeh. (PIC-10, 11, 12). Even on the side of State High way unscientific fly ash dump has been found, also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Fly ash dump adjoining to Forest and nalah in personal land of some villager have also been seen, due to cracks and land break from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda. The top of Dump was at least 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoined field. To prevent the same no remedial measures has been taken by the PP. On current visit dated 25-08-2021 we find that some of the fields have become useless, in agricultural field flowing of fly ash was found. On road side we could see the flowing of fly ash in heavy quantity. A pretty big area has been covered under flowing of fly ash from this Dump.

The committee has visited newly constructed ash dyke near the power plant in Nawapara and observed flow of water along with side of ash dyke leading in the fields of farmers. The chairman of the committee has instructed for collection of water samples and submit analysis report during hearing in matter at Bilaspur. The committee has also witnessed the breaching and damage, Fly ash flying over the ash dyke has also been seen. It appears that there is no system operating to keep the fly

N. J. Joshi

ash in wet condition. Construction also does not appear to be scientific. Adjoining to this dyke there is village, naturally fly ash flying will damage the environment.

3.2 Visit of Sites of Ash Disposal by M/s Mahaveer Energy & Coal Benefication-

M/s Mahaveer Energy & Coal Benefication Limited is Bio-mass based 12 MW power plant located in village Bhengari. The industry generates fly ash by burning of rice husk with coal and use to dump it unscientifically in village Bhengari. The committee has visited dumping sites on 25th August 2021 and found fly ash dumping in Bhengari village and also in the plant



premises. (PIC-13 & 14) The unscientific disposal of fly ash leads air borne during summer season and washed out during rainy season leading towards surface water body. Near a temple there was a fly ash dump adjoining to Forest and River, due to erosion

from various points' water along with fly ash flowing from there is clear. No guide lines as prescribed since 1999 have been followed.

As per report of committee dated 11-10-2019 it has been found that M/S Mahaveer Energy is indulging in extensive and irresponsible disposal of fly ash in village Bhengari. In that report Fig. 3 Extent of fly ash dumping in agricultural land in Bhengari Village close to Bhengari Nala and Fig. 4. 40 feet height fly ash dump by M/s Mahaveer Energy in Bhengari village (in the name of low lying areas dump). On recent visit on 25-08-2021 we saw the spot (Fig.4 of that report) and found that earlier reporting still continues. We also saw evidence of flowing fly ash from upper portion to lower portion. On 15-17 March visit it has been noted that Mahaveer Energy has created an ash dump behind its premises the top of dump is at least 10 feet height above the ground level and does not confirm to the SOP for dumping in low lying area, even there is no proper retaining wall around the dump creating a public hazard. In present visit we still found the Dump present in open sky flying in environment. No representative of the industry was present hence Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh was instructed to inform the unit for coming in hearing at Bilaspur with necessary documents.

N. J. Prasad

3.3 Visit of Fluoride contaminated village- Saraitola, Tamnar- The applicant has informed about fluoride contamination in ground water in village Saraitola, District- Raigarh. The committee has accepted her request and visited village Saraitola which was found far away from core coal mining area. The Chairman of the Oversight Committee has instructed Regional Officer Chhattisgarh Environment Conservation Board, Raigarh to collect the ground water sample and get it analyzed for Fluoride from EPA certified laboratory and submit the report. Ground water sample was collected from house bore well of Sh. Muridhar Rathia, Village Saraitola. (PIC-15) The committee has also instructed Regional Officer Chhattisgarh Environment Conservation Board, Raigarh to call concerned officer from PHED to be present in meeting on 26th August 2021 at Circuit house, Raigarh.



4. Review Meeting of Committee (26.08.2021)-

The status of implementation of short term and long term action plan as per field observation was discussed in the meeting and compliance are as under-

1. Part-A Short term Action Plan:-

- (1) Whether CECB amended the consent conditions of all TPP and Coal mines. **(Action by CECB)** ✓

CECB has amended the consent conditions accordingly and submitted copy of the CTO issued to M/s Ambuja Cement Limited GP IV/8 and M/s Chhattisgarh State Power Generation Company Limited, GP Sector –III for satisfaction to committee.

- (2) Whether SECL Chaal (OC), Monet Ispat, HINDALCO Limited, M/s Ambuja Cement are accepting fly ash for disposal through OB and back filling. **(Action by CECB)**

Not accepting the fly ash, CECB has asked to obtain permission from DGMS for fly ash backfilling on or before 31st August 2021.

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- (3) Whether CECB constituted State level Committee to decide the mode and quantity of fly ash to be disposed in working/abandoned mines/ Quarries in the State. **(Action by CECB)**

CECB has submitted office order about constitution of state level committee comprising administrative members from Chhattisgarh Government designating MS CECB as member convener. Hence it has been decided to hear the view of State Level Committee on disposal of legacy fly ash in the state through its member convener on 16.09.2021 at 4.00 PM.

- (4) Whether as per precondition of SOP Power plant/land owner / agency have obtained statutory permission from regulatory authority SPCB. **(Action by CECB)**

No

- (5) Whether CECB has submitted list of the location of low lying areas being used or earlier used for unscientific disposal of fly ash for which permission has been granted by local administration after getting NOC from CECB. **(Action by CECB and DC Raigarh- All gram sarpanch of the area in question may be called in stake holder meeting)**

CECB has provided list of locations of low lying areas used for unscientific disposal of fly ash without any detail about permission granted by local administration after getting NOC from CECB.

- (6) Whether Hindalco is providing tap water in villages Kondkel in co-ordination with PHED. **(Action by Hindalco and PHED.)**

Representatives of M/s HINDALCO and PHED were present during meeting on 23.08.2021 and field visit on 24.08.2021. The committee has observed that M/s HINDALCO is providing tap water in village Kondkhel, hence PHED has been directed to regularly monitor quality of drinking water provided by M/s HINDALCO.

- (7) Whether information has been collected regarding water recharge provided by coal mines while obtaining NOC from Central Ground Water authority. **(Action by CECB- Request has been sent to Regional Director, Central Ground Water Board (CGWB), Raipur on 18.06.2021. Response from CGWB is awaited. RD, CGWB, Raipur may be asked to be present in the meeting of committee with stakeholders.)**

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Representative of CGWB, Raipur Sh. Srinath Scientist "B" was present during meeting on 23.08.2021 and assured the committee to provide the required document in the 1st week of September 2021.

- (8) Whether CCTV has been installed by M/s HINDLCO Industries, SECL Gare Palma IV/2 & 3, SECL Chaal, SECL, Gare Palma IV/1. **(Action by CECB- CCTV installed in all mine except Gare Palma IV/1 which is not in production as on date)**

Accepted as complied based on the observation of the committee during field visit.

- (9) Whether CAAQMS has been installed in all coal mines having its connectivity with CPCB/CECB servers. **(Action by CECB- CAAQMS purchase order placed by CECB)**

Not complied as on date of visit of the committee.

- (10) Whether IRCON has completed work, 14 KM rail line from Gharghoda- Bhalumunda-Gare Palma and 5 number of coal siding in Tamnar and Gharghoda area. **(Action by IRCON and physical verification by CECB)**

The representative from IRCON International Limited present in the meeting on 23.08.2021 has informed extension of target date up to December 2021. The committee has asked M/s IRCON International Limited to submit the statement in writing.

- (11) Whether proper repair and maintenance of Road have been done inside and outside the mine area by PWD and mining companies. **(Action by PWD for outside mining area)**

EE ,PWD, Raigarh has attended the meeting of Oversight committee on 26.08.2021 and informed that proposal was submitted before one week and nothing was found on ground level. The committee has instructed the EE, PWD, Raigarh to submit action plan with pert chart endorsed by PS, PWD Chhattisgarh Government for completion of said roads by 5th September 2021.

- (12) Whether proper and free health facilities with multispecialty treatment system have been provided in all coal mine adjacent villages. **(Action by DC Raigarh-Organization of health camps have been started.)**

N. J. Prasad

Free medical health facility was to be provided by State Government to villagers residing near to coal mining area. In this context it was informed that State Government has organized health check camp in August 2021 in all coal mine adjacent villages but applicants present in meeting on 23.08.2021 had reported it insufficient as it is not regularly organized. Hon'ble NGT in its order has given liberty to PS, Health, Chhattisgarh for issuing necessary directions to stake holders for providing essential health facility in all coal mine adjacent villages.

District Medical Health Officer of Raigarh has attended the meeting and submitted details of PHC & SHC of Tamnar and Gharghoda area. He could not provide number of medical officer and paramedical staff presently working in these PHCs and CHCs. On meeting dated 26-08-2021 Medical officer present was directed to furnish the names of medical and paramedical staff working in these area and to furnish details of various medical treatment schemes issued by State / Union applicable in this area and to file documents in support of compliance of Hon'ble NGT's order.

- (13) Whether MoEF & CC has submitted compiled response received from coal mines relating to Green Belt developments as per EC conditions. **(Action by MoEF&CC Nagpur)**

Member from MoEF&CC, IOR, Raipur has asked for time and assured to submit it in the meeting during 14-16th September 2021.

- (14) Whether after September 2020 any UG mines has been converted to OC coalmines. **(Action by MoEF&CC Nagpur)**

Member from MoEF&CC, IOR, Raipur has asked for time and assured to submit it in the meeting during 14-16th September 2021.

- (15) What progress has been made for commissioning a detailed and Comprehensive environmental load carrying capacity study **(Action by CECB- Offer called from NEERI. 1st round of technical meeting held on 02.08.2021)**

No progress reported by CECB.

- (16) Whether in 2020-21 total transportation of coal to TPP have been made by coal mines through Rail or closed conveyor belt. **(Action by All Coal Mine – follow up by CECB)**

No

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- (17) Whether strict monitoring and follow up action by MoEF & CC for green belt development compliance has been made, if so, its result. **(Action by MoEF&CC, Nagpur)**

Member from MoEF&CC, IOR, Raipur has asked for time and assured to submit it in the meeting during 14-16th September 2021..

- (18) Whether CMD SECL issued any permission for utilization of abandoned mines for disposal of fly ash. **(Action by SECL- Yes copy of the letter to be provided by CECB)**

CECB vide its letter number 318 dated 10.05.2021 has made allotment of fly ash disposal in void of Domnara OC mine (Abandoned) of Raigarh area as below-

S.N.	Name of Thermal Power Plant	Allotted Quantity in M ³
01	M/s D B Limited, District- Janjgir Chanpa	20890.69
02	M/s S.K.S. Power Generation, Daramuda, Raigarh	10445.34
03	M/s TRN Energy Pvt. Ltd, Nawapara, Raigarh	10445.34
04	M/s SSP Steel & Power Limited, Jamgaon, Raigarh	765.99
05	M/s Singhal Enterprises, Taraimal, Raigarh	452.63

- (19) Whether complete supply of coal from Palma IV/2&3(SECL) have been made to JPL and JSPL through existing closed conveyor belt in 2019 -20 and 2020-21.**(Action by CECB:CECB earlier has given the quantity of supply in 2019 -20 and 2020-21.)**

CECB has to report the production and supply through conveyor belt to ascertain the complete supply.

2. PART-B Long term Action Plan:-

Hon'ble NGT has directed that the Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law.

- (1) Whether JSPL cleaned up the unauthorized dump. Whether JSPL complied the process of covering of fly ash with overburden /sweet soil and ensured daily watering or covering up the fly ash during back filling process. (GP IV/I) **(Action by CECB-reported complied on 23.06.21)**

N. J. Prasad

CECB reported that direction issued to JSPL has been complied and the same was also observed by the committee during its visit on 24.08.2021. PIC- 16



Whether JPL cleaned up the unauthorized dump and disposed the fly ash in the mine void through the back filling process (GP IV /2-3) **(Action by CECB- reported complied on 23.06.21)**

CECB reported that direction issued to JPL has been complied and the same was also observed by the committee during its visit on 24.08.2021. PIC-17



- (2) Whether directions issued seeing condition of leakage of fly ash dyke IIA and IIB of JSPL have been complied with or not. **(Action by CECB- Dyke Stability report submitted)**

CECB reported that direction issued to JPL has been complied. In order to take the status, the oversight committee once again visited the sight on 24th August 2021.

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Although spot shown by the officials of the JPL we could not observe leakage on that area from the dyke but we are not sure about other part of the dyke. The committee has directed M/S JPL to be present in hearing meeting at Bilaspur with stability report of ash dyke, relating to our earlier field visit directions along with detail technical report about mode of repairing of leakage.

- (3) TRN power has created an ash dump violating EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mud wall leading to fly ash flowing into adjoined field even situation to fly ash into neighboring habitants. Whether further dumping is continuing, whether regular watering is done in mud dyke. Whether fly ash dumping caused injury to any person or any property. Whether fly ash dump was in his own land or in the land of others. **(Action by CECB- reported not complied on 23.06.21)**

See current field visit details. The industry has been provided opportunity of hearing during 14-16th September 2021 at Bilaspur.

- (4) Mahaveer Bio Energy has created an ash dump behind its premises in violating the SOP and EC even creating a public hazard. Whether dump has been made in private land of villagers, whether improper dumping has been removed. **(Action by CECB- compliance awaited)**

See current field visit details. The industry has been provided opportunity of hearing during 14-16th September 2021 at Bilaspur.

- (5) Whether to save hazard from fire which took place in Gare Palma IV /2-3 (SECL), SECL arrested all fire within 500 m of Kusumpalli and Sarasmal Village. **(Action by- SECL & DGMS- Report is awaited.)**

Issues regarding raging fire in the Gare IV/2 and IV/3 is a part of OA No. 200/2018 (MA No. 615/2018) Dukalu Ram Vs Union of India in which CPCB has imposed Environmental Compensation on SECL and is under stay in Hon'ble Supreme Court of India.

During visit in one place we saw little smoke, member MoEF & CC stated that the same is result of extinguishing of fire.

N. J. Srinivasan

- (6) M/s Hindalco Industries Ltd. violating EC condition have drained untreated water at Gare Palma IV/4 in to a drain leading to agriculture field, whether still continuous, it caused any damage to agricultural field. Whether any other way out has been made by the industry. **(Action by CECB)**

CECB reported that direction issued to HINDALCO has been complied and industry is now providing treated water only through drain for irrigation. PIC 18 (After)



- (7) Whether OB dump by CSPGCE mine at Gare Palma sector 3 on both sides of public road was according to mining plan, if not what action has been taken by CECB and MoFF & CC. Whether any one suffered any loss from dump. **(Action by- CECB and MoEF&CC Nagpur)**

See details of visit .To be heard on environment compensation hearing during 14-17 Sept 2021.

- (8) *M/s Ambuja Cement Limited in adjoining area. Has also been visited by the committee on 24.08.2021.*

See details of visit. To be heard on environment compensation hearing during 14-17 Sept 2021.

1. PART-C Agenda for Hearing during 14-17th September 2021 at Bilaspur-

In order to summaries the non-compliances, damage caused, feasible remedies and assessment of compensation, the committee has decided to conduct the hearing meeting at Bilaspur during 14-17th September 2021.

- (1) To collect applications from claimant for damage reimbursement by 10th September 2021, to give copy to other party and inform each of them to be present in hearing during 14-

N. J. Prasad

16th September 2021 (on any date) at Bilaspur. (Action By-CECB)

- (2) All stakeholders and concerned departments are to be informed accordingly to take the opportunity of hearing on assessment of environmental compensation before Oversight Committee. (Action By-CECB)
- (3) CECB, RO, Raigarh shall inform Member Secretary, CECB to join committee meeting on 16.09.2021 at 4.00 PM on behalf of State Level Committee for management of Fly ash in Chhattisgarh.
- (4) Deputy Collector (DC) Raigarh will instruct concerned Patwaries of the area to be present in hearing with all related revenue documents required for agriculture damage assessment.
- (5) Submission of water testing report for samples collected during field visit to decide related issues.

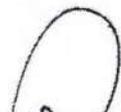
The meeting ended with thanks to Chairman.



(Shri. S.K. Verma)
Regional Officer, CECB, Raigarh



(Sh. P. K. Gupta)
Deputy Collector Raigarh



(Dr. Bhardwaj Adiraju)
Scientist 'C' MoEF&CC
IRO- Raipur



(Dr. R. P. Mishra)
Scientist "D" CPCB, Bhopal



(Dr. P.R. Pujari)
Senior Principal Scientist,
NEERI, Nagpur



(Justice V. K. Shrivastava)
(Chairman)

26.10.2021



16th September 2021(on any date) at Bilaspur. (Action By-CECB)

- (2) All stakeholders and concerned departments are to be informed accordingly to take the opportunity of hearing on assessment of environmental compensation before Oversight Committee. (Action By-CECB)
- (3) CECB, RO, Raigarh shall inform Member Secretary, CECB to join committee meeting on 16.09.2021 at 4.00 PM on behalf of State Level Committee for management of Fly ash in Chhattisgarh.
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- (5) Submission of water testing report for samples collected during field visit to decide related issues.

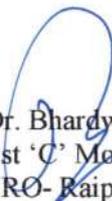
The meeting ended with thanks to Chairman.



(Shri. S.K.Verma)
Regional Officer, CECB, Raigarh



(Sh. P. K. Gupta)
Deputy Collector Raigarh

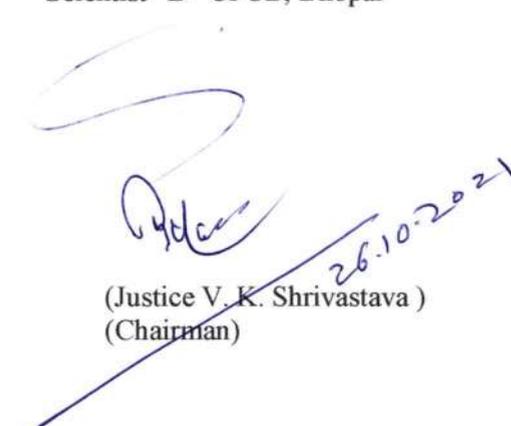


(Dr. Bhardwaj Adiraju)
Scientist 'C' MoEF&CC
IRO- Raipur



(Dr. R. P. Mishra)
Scientist "D" CPCB, Bhopal

(Dr. P.R. Pujari)
Senior Principal Scientist,
NEERI, Nagpur



26.10.2021

(Justice V. K. Shrivastava)
(Chairman)



3rd Meeting
Date-14th – 17th September 2021

Minutes of the meeting of Oversight Committee

OA No. 104/2018 Shivpal Bhagat & Ors.Vs Union of India & Ors.

In accordance with decision taken in 2nd meeting held on 26th August 2021 at Raigarh, about providing opportunity of hearing to stakeholders, villagers and farmers, 3rd meeting was conducted during 14th – 17th September 2021 at Bilaspur. Sh. Sharach chandra Lele, ATREE, Bengaluru could not attend the meeting due to his prior engagements, which he could not shift. The meeting was attended by members as under-

1. Justice V. K. Shrivastava, Chairman
2. Dr.Paras Ranjan Pujari, Senior Principal Scientist, NEERI, Nagpur
3. Dr.R.P.Mishra, Scientist 'D' Central Pollution Control Board, Bhopal
4. Dr. Bhardwaj Adiraju Scientist 'C' MoEF & CC, IRO Raipur
5. Sh.P. K.Gupta, Dy.Collector, Raigarh
6. Sh. S. K. Verma, Regional Officer, CECB, Raigarh

Hearing on environmental compensation and for non compliance observed during field visit dated 24-08-2021 and 25-08-2021 and matters connected there to, the committee has called the stakeholder to hear about the non-compliances observed during field visit of 24-08-2021 and 25-08-2021 and given the opportunity for explanation based on documents/ facts. The villager and farmers were also given opportunity to be heard on their claims of damage. Also afforded opportunity to concerned departments. The concerned departments of Chhattisgarh Government have been instructed to be present in hearing meeting for discussion on constraints and solution with role & involvement of authorities from State Government. PS Health or any of his representatives has not attended the meeting; however Chief Engineer PWD B/R Bilaspur Chhattisgarh attended the meeting accompanied with EE PWD Raigarh on 16th September 2021.



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1. Proceedings of 1st day hearing (14th September 2021)-

1.1 Chhattisgarh State Power Generation Company Limited Coal Mines (Gare Pelma Sector –III) -

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB Dump has been made on both sides of road even in some places adjacent to road. This public road is within the mining area and as stated and shown by companies officer present there, as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not comply the directions of notification 2009. For mining operation roads with the mines area is to be constructed by the lessee and lessee has to divert public roads, at his own cost to facilitate scientific mining. We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Condition of the road is bad. The mine authorities were present in hearing meeting with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

The representatives of CSPGCE presented the mining plan in which location of the OB dump is sited on the same place subject to diversion of PWD road passing between lease areas. They stated that CSPGCE has deposited required amount with PWD, Raigarh for diversion of the road. There is no material to know whether PWD is diverting the road or not and if they intend to divert the road, by which time they may start and complete the diversion. Hence storage of OB dump near to public road may create danger to public passing through the road. In this context committee was in opinion that CSPGCE shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect the public interest from accident as well as fugitive



emission. CSPGCE shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. CSPGCE shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash OB dump shall be followed.

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron structure up to a height of minimum 3m at 50m distance from road on both side of road along full road length in leased area. The said construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

CECB is to issue direction to CSPGCE for the same.

Guidelines/ direction violated by the Coal Mine bring it under four corners for payment of Environmental compensation.

✓ **1.2 M/s Ambuja Cement Limited Coal Mines (Gare Pelma Sector –IV/8) -**

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB dump was located very near to road side which was creating danger to public and transport moving on road. The mine authorities were present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

The representatives of M/s Ambuja Cement Limited presented the mining plan in which location of the OB dump is sited at distance of minimum 45m from road side subject to diversion of PWD road passing between lease areas. Officials of M/s Ambuja Cement Limited stated that they have deposited required amount with PWD, Raigarh for diversion of the road but there is no material to know whether PWD is diverting the road or not and if they intend to divert the road, by which time they may start

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and complete the diversion . Hence storage of OB dump near to public road may create danger to public passing through the road. In this context committee was in opinion that M/s Ambuja Cement Limited shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect the public interest from accident as well as fugitive emission. M/s Ambuja Cement Limited shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. M/s Ambuja Cement Limited shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash in OB dump shall be followed.

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron structure up to a height of minimum 3m at 50m distance form road on both side of road along full road length in leased area. The said construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

CECB is to issue direction to M/s Ambuja Cement Limited for the same.

Guidelines/ direction violated by the Coal Mine bring it under four corners for payment of Environmental compensation.

✓ 2. **Proceedings of 2nd day hearing (15th September 2021)-**

2.1 M/s TRN Energy Private Limited, Nawapara, Raigarh-

M/s TRN Energy Private Limited (2x300MW) thermal power plant is located in village Bhengari, Nawapara (Tenda), Gharghoda, Raigarh. The plant started its commercial production in 2016 with an average generation of fly ash 4000 MT per day. The thermal power has generated approximately 28,79,126 MT fly ash during January 2016 to March 2021, out of which 58% (16,65,007MT) has been disposed in low lying area of village Chote Gumda, Bade Gumda, Nawapara, Tenda and Baansmuda. As per detail submitted by the TPP the area used for disposal of fly ash is approximately 17.378 Hectare.



TRN power has created an ash dump violating EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mudwall leading to fly ash flowing into adjoining field even situation to fly ash into neighboring habitans. Whether further dumping is continuing, whether regular watering is done in mud dyke. Whether fly ash dumping caused injury to any person or any property? Whether fly ash dump was in his own land or in the land of others. (Action by CECB-reported not complied on 23.06.21)

Reply submitted during hearing was not found satisfactory, hence not complied

On field visit on 24-25.08.2021 we have seen that by the side of State High way unscientific fly ash dump has been found , also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Another fly ash dump adjoining to Forest and nalah in personal land of some villager have been seen, due to cracks and land break /erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda .The top of Dump was atleast 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoining field. To prevent the same no remedial measures has been taken by the PP. On current visit dated 25-08-2021 we find that some of the fields have become useless, in agricultural field flowing of fly ash was found. On road side flow we could see the flowing of flyash in heavy quantity. A pretty big area has been covered under flowing of fly ash from this Dump.

Representative from TRN admits all these OB dumps and contended that after obtaining the permission from land owner and Gram Panchayat Fly ash dump have been made .

Although they brought some papers and made attempt to show that they have not violated the Environmental conditions. But could not produce permission / consent of State Pollution Control Board. The thermal power plant has also submitted copy of study report conducted in 2018 by ISM Dhanbad which

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recommends about no metal contamination in ground water due to leaching from fly ash disposed in low lying area.

Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines gives liberty to loose disposal of fly ash that's too above ground level.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s TRN Energy Private Limited, Nawapara is also included in that list for Environmental Compensation of Rs. 1,48,80488 on which Hon'ble Supreme Court vide its order dated 04.11.2019 has directed deferment of the proceedings.

Chhattisgarh Environment Conservation Board has informed about issue of closure notice to the industry. TPP has submitted the reply of notice which is under consideration for decision. The representative of the industry have informed about construction of new ash dyke for which land has been acquired in 2017 and Environmental clearance obtained in year 2011.

Ash Dyke belonging to TRN Energy Ltd , on visit we find that at one place wall of the dyke is severely damaged and we apprehended that accident may took place, Shri R.P. Mishra inform the facts for repairs forthwith so as to avoid any unfortunate event. Underground water discharge from dyke is there and the discharged water is flowing to agriculture field. Water samples have been collected. Fly ash flying over the ash dyke has also been seen. Even some of the persons seen roaming over the dried fly ash lying in the dyke. It appears that there is no recycle water system operating. Construction does not appears to be scientific.



Representatives of TRN does not dispute the damage but they contended that Railway has made dump of the soil in their outer wall and that dump has been eroded due to rain but could not show any evidence to support his contentions. They also stated that as per original permission accorded by MoEF&CC they have constructed this second Ash dyke and for perusal shown the permission letter. In this permission letter there is no sanction of more than one ash dyke even as per deliberation it could come to know that first ash dyke is inside the Plant and this ash dyke has been made outside the plant .Whether ash dyke should have been built in the vicinity of habitants, to reply this question they could not able to show any legal authority or any permission. So far as water discharge is concerned they stated that this water discharge belongs to Railway.

For non compliance of the environmental standard/ violations of legal direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved . TRN is liable for environmental compensation.

✓
2.2 M/s Mahaveer Energy & Coal Benification Limited -

M/s Mahaveer Energy & Coal Benification Limited is Biomass based 12MW Thermal Power Plant located in Village Bhengari, Gharghoda, Raigarh. The plant started its commercial production in 2014 with an average generation of fly ash 20000 MT per annum. The thermal power has generated approximately 139839 MT fly ash during April 2014 to March 2021, out of which 0.04% (56 MT) has been disposed in low lying area of village Bhengari. The industry during hearing has submitted documents related with agreement for fly ash use by Sh. Saroj Kumar S/o Sh. Prabhakar Kumar in Brick manufacturing. This agreement was done on 04.12.20 indicating that fly ash generated before 04.12.2020 have been disposed in low lying area. The industry has also provided copy of revenue records in support of ownership of the land. Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines gives liberty to loose disposal of fly ash that's too above ground level. No consent has been obtained from CECB.

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The above said notification only permits for reclamation and compaction of fly ash in low lying area but do not give liberty to loose disposal of fly ash that's too above ground level. The oversight committee during its visit has observed heaps of disposed fly ash giving its way to become air borne or flow with rain water in drain leading to surface water contamination.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s Mahaveer Energy & Coal Benification Limited is not included in that list for Environmental Compensation because the industry has submitted report of 100% utilization in manufacturing of fly ash brick to Chhattisgarh Environment Conservation Board which seems to be misleading information given to statutory authority.

Mahaveer Bio Energy has created an ash dump behind its premises in violating the SOP and EC even creating a public hazard. Whether dump has been made in private land of villagers? Whether improper dumping has been removed ? **(Action by CECB-compliance awaited)**

Reply submitted during hearing was not found satisfactory, hence not complied

On field visit dated 25-08-2021 we found near a temple there was a fly ash dump adjoining to Forest and River, due to erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground and as per persons gathered there the land is govt. land recorded as ""Chote Jhad Ka Jungle". No guidelines as prescribed since 1999 have been followed. As per report of committee dated 11-10-2019 it has been found that M/S Mahaveer Energy is indulging in extensive and irresponsible disposal of fly ash in village Bhengari. In that report Fig. 3 Éxtent of fly ash dumping in agricultural land in Bhengari Village close to Bhengari Nala and Fig. 4. 40 feet height fly ash dumps by M/s Mahaveer Energy in Bhengari village (in the name of low lying areas dump). On recent visit on 25-08-2021 we saw the spot (Fig.4 of that report) and found that earlier reporting still continues. We

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also saw evidence of flowing fly ash from upper portion to lower portion. On 15-17 March visit it has been noted that Mahaveer Energy has created an ash dump behind its premises the top of dump is atleast 10 feet height above the ground level and does not confirm to the SOP for dumping in low lying area, even there is no proper retaining wall around the dump creating a public hazard. In present visit we still found the Dump present in open sky flying ash in environment.

Representative from Mahaveer Bio Energy to defend their action have accepted all those dump but their contention is that because of demand of Mandir Samiti, dump near Mandir has been made, other dump are in their own land, they are using fly ash in making the bricks under their own kiln and also providing fly ash to other kiln holder but to support he could not produce land owner ship in his name or other documents regarding actual use of fly ash in making the bricks.

For non compliance of the environmental standard/ violations of legal direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved. M/s Mahaveer Energy & Coal Benefication Limited is liable for environmental compensation.

2.3 M/s Jindal Power Limited, Tamnar, Raigarh-

It was reported in over sight committee visit on 17.03.2021 about leakage of fly ash slurry from ash dyke of M/s Jindal Power Limited. The committee had suggested M/s JPL to conduct study through a research organization of national repute to determine the stability of the existing ash dyke and take measures required to strengthen as needed. In order to take the status, the oversight committee once again visited the site on 24th August 2021. Although spot shown by the officials of the JPL we could not observe leakage on that area from the dyke but we are not sure about other part of the dyke. The committee has discussed in details about process adopted for repair of the leakage and directed M/s JPL to submit the authentic report about strength of repairing undertaken and the stability report of the existing ash dyke from research organization of national repute on or before 30-11-2021.



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2.4 M/s Jindal Steel Power Limited, Dongramau, Tamnar, Raigarh-

The captive power plant of M/s Jindal Steel & Power Limited, Dongramau has permission for disposal of its fly ash in Gare Palma IV/01 open cast mines. During visit of the committee on 24th August 2021 it was observed that fly ash mixed with OB being disposed near drain/ Nala (a watercourse) passing in mining lease area. The distance between disposal site and drain seems to be less than 500m and during rainy season fly ash may take a way to River Kelo through drain/ Nala (a watercourse). The issue has been considered as negligence in selection of site and M/s JSPL has been directed to shift the same on or before 30.11.2021.

3.0 Proceedings of 3rd day hearing (16th September 2021)-

Intimation was sent to PS Health and PS PWD Chhattisgarh Government to join the committee meeting on 16th September 2021 for hearing about progress/ constraint observed in delivering the target defined in action plan submitted to Hon'ble NGT. PS Health Chhattisgarh Government could not ensure his presence in person/representative in the meeting. However Chief Engineer, Bilaspur and Executive Engineer Raigarh of PWD attended the meeting and briefed the progress as under-

1. An amount of Rs.6274.33 Laks is sanctioned on 08.09.2021 for 27.50 km CC road from Punjipatra to Tamnar.
2. Approval granted on 23.02.2021 for an amount of 2032.95 Lakhs for renovation work of 13.40 km road from Raigarh to Gharghoda.
3. Approval granted on 08.09.2021 for an amount of 1797.25 Lakhs for renovation & Strengthening work of 10 km road from Chaal to Gharghoda.
4. So far as patch repair work is concerned, no documents or material could be produced even otherwise we could not see any repair work going on, on the roads.

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All above sanctions and approvals are subject to acquirement of land, Release of Loan and two years' time for completion. Till date there is no progress regarding acquisition of land, sanction of loan, etc. All these facts itself shows that matter has not been given any seriousness or to say in near future the road is not going to be made. The committee is not satisfied with submission.

Matter to be considered for imposition of environmental compensation.

Hearing to Health Department

Health Department did not furnish the information as called for from then in the last meeting. Earlier observations have also not been complied. Even Chief Secretary, Principle SEC. did not respond to Order dated 24-06-2021 passed by Hon'ble NGT therefore for environment compensation hearing, notice has been given to Department.

NEERI REPORT – Investigation of water sources(2018) and Study report on Health assessment and projection of health of people living in Tamnar Block, Raigarh by CMR- National Institute of Research in Tribal Health (2019-20) also exposes environmental health hazard. We have also seen that some of the area is FLORIDE affected.

None appeared. Presumptions would be that they are not taking any steps to protect health of inhabitant from health hazard caused by air / water pollution/ breach of environment condition. There is no material which may defend Health Departments liability for environmental compensation.

Matter to be considered for imposition of environmental compensation.

Member Secretary, Chhattisgarh Environment Conservation Board has represented the monitoring committee constituted by Chhattisgarh Government to monitor the utilization of Fly ash in accordance to MoEF&CC notification SO 2804 (E) dated 03.11.2009. The paragraph 07 of above said notification is as-

➤ Para number 07 "*No agency, person or organization shall within a*



radius of hundred kilometers of a coal or lignite based thermal power plant undertake or approve or allow reclamation and compaction of low lying areas with soil; only fly ash shall be used for compaction and reclamation and they shall ensure that such reclamation and compaction is done in accordance with the specifications and guidelines laid down by the authorities mentioned in sub-paragraph (1) of paragraph 3”’.

- Para number 8(i) – “ *No person or agency shall within fifty kilometers (by road) from coal or lignite based thermal power plants, under take or approve stowing of mine mines without using at least 25% of fly ash on weight to weight basis, of total stowing material used and this shall be done under the guidance of the Director General of Mines Safety (DGMS); provided that such thermal power stations shall facilitate the availability of required quality and quantity of fly ash as may be decided by the expert committee.*

Chhattisgarh Environment Conservation Board shall provide status of utilization of fly ash in coalmines located in Raigarh.

Chhattisgarh Environment Conservation Board could not provide any guidelines issued to ensure reclamation and compaction of fly ash disposed in low lying area and any policy frame work for utilization of legacy fly ash. It was under stood during hearing with Thermal Power Plants that TPPs have obtained NOC from concerned gram Panchayat and concurrence letter from land owner but SPCB has not provided any consent/ permission. The recommendation of oversight committee for constitution of State Level committee to oversee the status of implementation of SOP was in accordance with office memorandum of MoEF&CC dated 28th August 2019. Fly ash utilization reports of since last 10 years submitted by industries of Raigarh indicates utilization of fly ash. It is revealed from fly ash utilization data submitted by industries of Raigarh that few industries has disposed up to 95% of fly ash in low lying area. Unscientific disposal of fly ash in low area will keep on adding the quantum of legacy fly ash.



Member Secretary, CG Environment Conservation Board, Raipur, apprised us that State level committee has been constitute a long back and now has been reconstituted. They have taken the work of disposal of Fly ash. They also talk about MOU etc. and also about action taken against defaulting proponents.

Hearing to affected person for compensation against person or property.

We waited till 16th September but neither applicants nor any one of the claimant appeared to support their claim. Concerned Patwaris have been called who furnished relevant information.

As per damage claim submitted by villagers details of affected land as given by Patwari is as under-

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare
01	Sh. Ghurauram Rathia Nawapara	381/01	0.076
02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895
03	Sh. Karam Singh Rathia	401/01	0.101
Total Affected area			6.483

All above claims are against TRN, but TRN neither filed any reply.

Matter to be considered for imposition of environmental compensation.

4.0 Proceedings of 4th day hearing (17th September 2021)-

Review Meeting-

4.1 The applicants informed about presence of Arsenic and other metals in the pond water located in Sarasmal village making it harmful for irrigation. The



committee has instructed CECB for collection of onsite water samples for analysis by EPA approved laboratory. The analysis results obtained from M/s Ultimate Enviroltcal Solutions (Recognized by MoEF&CC under EP Act 1986) is as under-

Parameters (in mg/l)	Location of the sample		Limit in mg/l IS 10500:2012
	Sample 01	Sample 02	
Total Solid	209.6	108.8	
Total Dissolved Solid	190.8	154	2000
Total Suspended Solid	18.8	26.8	
Arsenic (as As)	Not Detectable	Not Detectable	0.05
Zinc (as Zn)	0.382	0.086	15
Nickel (as Ni)	Not Detectable	Not Detectable	0.02
Copper (As Cu)	Not Detectable	Not Detectable	1.5
Cobalt	Not Detectable	Not Detectable	
Magnesium (as Mg)	0.11	0.08	100

1. SECL Gare Palma IV/2&3 water from Agriculture field
2. SECL Gare Palma IV/2&3 water from Sarasmal Village

4.2 The applicant has informed about fluoride contamination inground water in village Saraitola, Tamnar, District- Raigarh. The committee has accepted the request and visited village Saraitola which was found far away from core coal mining area. The Chairman of the Oversight Committee has instructed Regional Officer Chhattisgarh Environment Conservation Board, Raigarh to collect the ground water sample and get it analyzed for Fluoride from EPA certified laboratory and submit the report. Ground water sample was collected from house bore well of Sh. Murlidhar Rathia, Village Saraitola. The analysis results obtained from M/s Ultimate Enviroltcal



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Solutions (Recognized by MoEF&CC under EP Act 1986) reveals concentration of fluoride 0.899 mg/l. The permissible limit fluoride in drinking water as per IS 10500 : 2012 is 1.5 mg/l. (Report is placed at Annexure-01)

4.3 In the visit of the committee water samples were also collected near fly ash dyke of M/s TRN Energy found going to agricultural field. The samples were got analyzed from M/s Ultimate Envirolytical Solutions (Recognized by MoEF&CC under EP Act 1986) and results are as under-

Parameters (in mg/l)	Location of the sample		Limit in mg/l IS 10500:2012
	Sample 01	Sample 02	
Total Solid	417.7	403.1	
Total Dissolved Solid	402.8	394.5	2000
Total Suspended Solid	14.6	8.6	
Arsenic (as As)	Not Detectable	Not Detectable	0.05
Zinc (as Zn)	0.248	0.23	15
Nickel (as Ni)	Not Detectable	Not Detectable	0.02
Copper (As Cu)	Not Detectable	Not Detectable	1.5
Cobalt	Not Detectable	Not Detectable	
Magnesium (as Mg)	0.23	0.20	100

1. Water sample from Ash dyke side
2. Water sample from Agriculture field side

4.4 The committee has also collected water samples from hand pump and tap water of Kondkhel village to assess the water quality being supplied by M/s Hindalco Limited to villagers. The samples were got analyzed from M/s Ultimate Envirolytical Solutions (Recognized by MoEF&CC under EP Act

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1986) and results are as under-

Parameters (in mg/l)	Location of the sample		Limit in mg/l IS 10500:2012
	Sample 01	Sample 02	
Total Solid	120.4	501.6	
Total Dissolved Solid	118.4	496.8	2000
Total Suspended Solid	2.0	4.8	
Arsenic (as As)	Not Detectable	Not Detectable	0.05
Zinc (as Zn)	0.221	0.342	15
Nickel (as Ni)	Not Detectable	Not Detectable	0.02
Copper (As Cu)	Not Detectable	Not Detectable	1.5
Cobalt	Not Detectable	Not Detectable	
Magnesium (as Mg)	0.14	0.12	100

1. Tap Water sample from Kondkhel village
2. Hand pump Water sample from Kondkhel village

4.4 The committee has visited mining area M/s Hindalco Industries Limited and observed water discharge in to drain leading to agriculture fields. The representative of the mine has informed that water being discharged is fully treated and provided for irrigation to villagers. The Chairman of the committee has instructed for collection of water sample to assess the water quality as per irrigation standard. The samples were got analyzed from M/s Ultimate Enviroytical Solutions (Recognized by MoEF&CC under EP Act 1986) and results are as under-

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Parameters (in mg/l)	Location of the sample		Limit in mg/l IS 10500:2012
	Sample 01	Sample 02	
Total Solid	513.8	163.4	
Total Dissolved Solid	475.2	157.2	2000
Total Suspended Solid	38.6	6.2	
Arsenic (as As)	Not Detectable	Not Detectable	0.05
Zinc (as Zn)	0.428	0.164	15
Nickel (as Ni)	Not Detectable	Not Detectable	0.02
Copper (As Cu)	Not Detectable	Not Detectable	1.5
Cobalt	Not Detectable	Not Detectable	
Magnesium (as Mg)	0.38	0.06	100

1. Water sample from Dumernala, Banjhikhoh village
2. Mine Treated Water Sample from Kondkheh village

The status of implementation of short term and long term action plan as per field observation was discussed in the meeting and compliance are as under-

1. Part-A Short term Action Plan:-

1. Whether MoEF&CC has submitted compiled response received from coalmines relating to Green Belt developments as per EC conditions. **(Action by MoEF&CC, Raipur)**

Strict vigilance by MOEF&CC for green belt development compliance as per EC conditions Industry wise green belt data is as follows:-

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A. M/s. Hindalco Industries Limited (Details as provided by the Project Proponent,

(EC Specific Condition IV of Gare Palma IV/4 -Karanj should be deleted from the list of native species for plantation program. Environment Clearance Letter no. – J-11015/183/2010- IA –II. (M) Dated 16.04.2015)

(EC Specific Condition IV of Gare Palma IV/5 - A Green Belt of adequate width should be raised by planting the local species along the mine boundary, Waste rock dumps, ore stockpile, ventilation fan road and selected open areas in consultation with local DFO/ Agriculture Department. Density of tree should be at least 2500 plants per ha. Environment Clearance Letter no. – J-11015/8/1998- IA –II. (M) Dated 16.04.2015)

Industry	Project	Year wise	Plantation area(Ha)	Plantation Done	Survival Rate (%)	No. of plants survived
Hindalco	Gare Palma IV/4 OCM (Custodian)	Upto 2015	18.0	53000	85.00	45050
		2016	2.3	6500	90.00	5850
		2017	3.5	10000	87.00	8700
		2018	1.7	5000	87.00	4350
		2019	2.4	6600	90.00	5940
		2020	3.9	10200	93.83	9570
		2021	3.2	8521	95.00	8094
		Total	35.0	99821	87.71	87554
	Gare Palma IV/5 CM (Custodian)	Upto 2015	9.84	30000	82.00	24600
		2016	0.68	2000	85.00	1700
		2017	1.6	5000	80.00	4000
		2018	1.7	5000	85.00	4250
		2019	1.8	5000	90.00	4500
		2020	0.44	1100	100.00	1100
		2021	0.59	1504	98.00	1474
Total		16.6	49604	83.91	41624	

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- A project report on “Monitoring and evaluation of plantation” at Gare Palma IV/4 OCM (Milupara, Tamnar, Raigarh (C.G.) by Nav Aastha Jan Vikas Seva Samiti till 2017 has been submitted.

- A project report on “Monitoring and evaluation of plantation” at Gare Palma IV/5 CM (Under Ground) Milupara, Tamnar, Raigarh (C.G.) by Nav Aastha Jan Vikas Seva Samiti till 2017 has been submitted.

B. M/s Mahavir Energy & Coal Benefaction Limited

Industry	Project	Year wise	Plantation Target	Plantation Done	Survival Rate (%)	No. of plants survived
Mahavir	Mahavir Energy & Coal Benefaction Ltd.	2008-09	500	270	54.07	146
		2009-10	750	560	75.00	420
		2010-11	2000	1510	76.03	1148
		2011-12	1000	910	71.98	655
		2012-13	1000	1680	70.00	1176
		2013-14	1000	750	68.27	512
		2014-15	500	70	80.00	56
		2015-16	2000	1069	75.77	810
		2016-17	1000	910	77.47	705
		2017-18	500	1500	100.00	1500
		2018-19	500	450	88.89	400
		Total		10750	9679	76.13

- Layout of plantation at Mahavir Energy & Coal Benefaction Ltd. plant has been provided by PA. Plantation details from 2019 to 2022 have not been provided.

C. M/s CSPGCL (Details as provided by the Project Proponent)

(EC Specific Condition XXIV and XXXV Gare Palma III - Extensive plantation should be done near agriculture area to avoid coal dust pollution which may affect the productivity of crop. Environment Clearance issued vide letter No. J-1 101 5/ 168/2009-IA.II (M), Dated 23.05.2013 and amendments issued vide letter No. J-11015/168/2009-IA.II (M) Dated 17.06.2014)

Industry	Project	Year wise	Plantation area(Ha)	Plantation Done	Survival Rate (%)	No. of plants survived

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M/s CSPGCL	Gare Palma III Coal Mines	2019-20	0.09	820	80	656
		2020-21	0.9	3480	85	2958
		2021-22	1.88	9310	85	7913
		Total	2.87	13610		11527

- Plantation layout at Gare Palma Sector III (CSPGCL) has been provided.
- Plantation area description along with the species planted has been provided by PA.

D. SECL (Details as provided by the Project Proponent)

(EC Specific Condition 17 Gare Palma IV/I – Green belt shall be developed along the areas such as the washery unit, crushing unit and stock yard and at transfer point and in between mine operation and habitation. Environment Clearance issued vide letter No. J-11015/204/2005/IA.II (M) dated 06/12/2005 and J- 11015/81/2008/IA.II (M) dated 16/04/2015)

(EC Specific Condition 26 Gare Palma IV/2 and IV/3 – Green belt shall be developed along the areas such as the washery unit, crushing unit and stock yard and at transfer point and at transfer points. Environment Clearance issued vide letter No. J-11015/288/2007/IA.II (M) dated 12/06/2012 and Modified/ Exemption of EC dated 16/04/2015)

Industry	Project	Year wise	Plantation area(Ha)	Plantation Done
SECL	Gare Palma IV/1 OCM (Custodian)	2016-17	0	0
		2017-18	8	20000
		2018-19	10	25000
		2019-20	10	25000
		2020-21	8	20000
		Total	36	90000
	Gare Palma IV/2 &3 OCM (Custodian)	2016-17	4.2	10500
		2017-18	4.2	10500
		2018-19	0	0
		2019-20	10	25000
		2020-21	10	25000
		2021-22	10	25000
		Total	38.4	96000

N. J. P. M.

E. M/s Ambuja Cement(Details as provided by the Project Proponent)

(EC Specific Condition XXV Gare Palma IV/8 – Green Belt shall be developed all along the periphery of the site, along the area such as the washery unit, crushing unit, stock yard. A three tier avenue plantation would be developed along vacant areas, near washery, storage yard, loading points and transfer points and along internal roads and main approach roads and on the two kilometer road up to the railway siding and at the siding. Environment Clearance issued vide letter No. J-11015/276/2010/IA.II (M) dated 10/06/2013 EC transferred to M/s Ambuja Cement Ltd. MoEF&CC file no. J-11015/76/2010/IA.II (M) dated 01/04/2019. EC extended no. J-11015/76/2010/IA.II (M) dated 30/09/2020.

Industry	Project	Year wise	Plantation area(Ha)	Plantation Done	Survival Rate (%)	No. of plants survived
M/s Ambuja Cement	Gare Palma IV/8	2018-19	1.8	4500	72	3240
		2019-20	2	5000	70	3500
		2020-21	1.2	3000	80	2400
		2021-22	1.7	4336	100	4336
	Coal Mines	Total	6.7	16836		13476

- Plantation layout at Gare Palma Sector IV/8 (M/s Ambuja) has been provided by the PA.
- Details of plantation done to arrest soil erosion over the OB Dump and area planted outside the mining lease in pursuant to the Forest Clearance have been provided.

(2) Whether after September 2020 any UG mines has been converted to OC coalmines. **(Action by MoEF&CC Nagpur)**

Since, all the Court Cases pertaining to State of Chhattisgarh were earlier dealt by IRO, Nagpur, a letter, in this connection had been sent to Member Secretary (Coal Mining) by IRO, Nagpur vide letter no CC-174/RON/2018-NGP/7823 dated 17/02/2021

N. J. S. P. M.

A follow up email has also been sent to Ministry by IRO, Raipur vide email dated 09/09/2021 (*enclosed as annexure - VII*). As per information received from the IA Coal Mining, no UG project has been converted to OC project in Tamnar and Gharghoda region.

However, M/s. Hindalco Industries Limited applied for expansion from 1 MTPA (0.56 MTPA from opencast and 0.44 MTPA from underground) to 1.5 MTPA on 25th July 2019 and TOR, in this connection, was granted on 08 January 2020. Thereafter no EAC meeting has been conducted as on date.

- (3) What progress has been made for commissioning a detailed and Comprehensive environmental load carrying capacity study (**Action by CECB- Offer called from NEERI. 1st round of technical meeting held on 02.08.2021**)

No progress reported by CECB. – Not Complied

- (4) Whether strict monitoring and follow up action by MoEF&CC for green belt development compliance has been made, if so, its result. (**Action by MoEF&CC, Nagpur**)

A follow up meeting has already been organized by IRO, Office by conducting meeting with all the Project Proponents vide letter no. CC-174/RON/2018-NGP/7823 dated 17/02/2021

The MoEF&CC has directed to the Project Proponents to submit the updated Plantation details on quarterly basis to IRO, Raipur office and the same will be verified where and when the Ministry Representative visits the concerned area.



True Copy

2. PART-B Long term Action Plan:-

Hon'ble NGT has directed that the Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law.

To be considered in next meeting in the light of facts and materials discussed above and conclusions made there in.

3. PART-C Agenda for meeting during 26-27th October 2021 at Bilaspur-

In order to summaries the non-compliances, damage caused, feasible remedies and assessment of compensation, the committee has decided to conduct the meeting at Bilaspur during 26-27th October 2021.

- (1) Calculation of environmental compensation in those cases found not satisfied during hearing in last meeting.
- (2) Calculation of property damage on application submitted by villager
- (3) To discuss about carrying capacity study
- (4) CECB, RO, Raigarh to follow up with
 1. CGWB- for water recharging point report
 2. DMHO- for providing CHC, PHC detail with staff strength and Government health scheme being implemented in rural area
 3. PHED for detail about treatment of fluoride contaminated water in Saratola village
- (5) Any other issue with permission to Chairman.



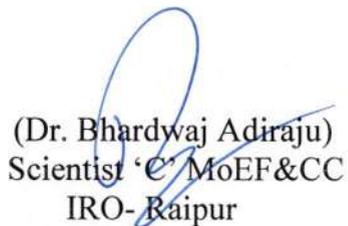
The meeting ended with thanks to Chairman.



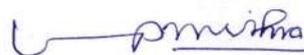
(Shri. S.K. Verma)
Regional Officer, CECB, Raigarh



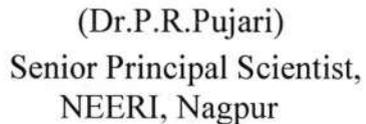
(Sh. P. K. Gupta)
Deputy Collector Raigarh



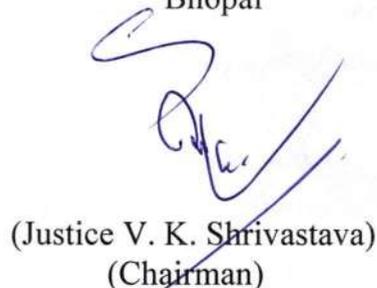
(Dr. Bhardwaj Adiraju)
Scientist 'C' MoEF&CC
IRO- Raipur



(Dr. R.P. Mishra)
Scientist "D" CPCB,
Bhopal

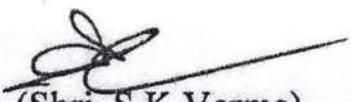


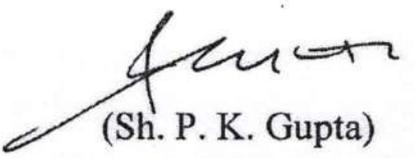
(Dr. P.R. Pujari)
Senior Principal Scientist,
NEERI, Nagpur

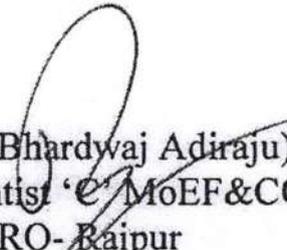


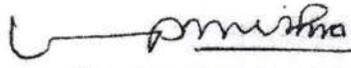
(Justice V. K. Shrivastava)
(Chairman)

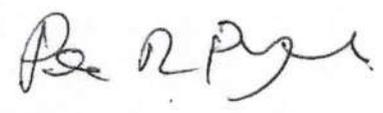


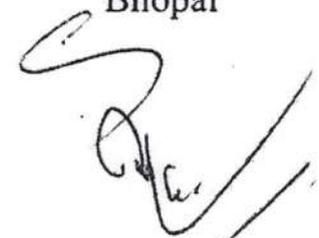

(Shri. S.K. Verma)
Regional Officer, CECB, Raigarh


(Sh. P. K. Gupta)
Deputy Collector Raigarh


(Dr. Bhardwaj Adiraju)
Scientist 'C' MoEF&CC
IRO- Raipur


(Dr. R.P. Mishra)
Scientist "D" CPCB,
Bhopal


(Dr. P.R. Pujari)
Senior Principal Scientist,
NEERI, Nagpur


(Justice V. K. Shrivastava)
(Chairman)

4th Meeting
Date-26-27th October 2021

Minutes of the meeting of Oversight Committee

OA No.104/2018 Shivpal Bhagat & Ors.Vs Union of India & Ors.

In accordance with decision taken in 3rd meeting held on 14th – 17th September 2021 at Bilaspur, 4th meeting was conducted during 26-27th October 2021 at Bilaspur. Sh. Sharachchandra Lele, ATREE, Bengaluru could not attend the meeting due to health issue. Dr. Paras Ranjan Pujari, Senior Principal Scientist, NEERI, Nagpur could also not attend the meeting because of urgent official occupation. The meeting was attended by members as under-

1. Justice V.K. Shrivastava, Chairman
2. Dr. R.P.Mishra Scientist ‘D’ Central Pollution Control Board, Bhopal
3. Dr. Bhardwaj Adiraju Scientist ‘C’ MoEF&CC, IRO Raipur
4. Sh. P. K.Gupta, DC, Raigarh
5. Sh. S.K.Verma, Regional Officer, CECB, Raigarh

Agenda for meeting during 26-27th October 2021 at Bilaspur-

- (1) To summarize the non-compliances, damage caused feasible remedies and assessment of environmental compensation in those cases found not satisfied during hearing in last meeting. Calculation of property damage for awarding environmental compensation on application submitted by villagers.
- (2) To discuss about carrying capacity study
- (3) CECB, RO, Raigarh to follow up with

- (4) CGWB- for water recharging point report
- (5) DMHO- for providing CHC, PHC detail with staff strength and Government health scheme being implemented in rural area
- (6) PHED for detail about treatment of fluoride contaminated water in Saratola village
- (7) Any other issue with permission to Chair

1. Supreme Court of India

M/S. Goel Ganga Developers India ... vs Union of India through Secretary ... on 10 August, 2018

2. Director General (Road Development) National Highways authorities of India V. Aam Aadmi Lokmanch and others AIR 2020Supreme Court 3471 .

- (1) Calculation of environmental compensation against TPPs and Coal Mines incases found not satisfied during hearing in last meeting

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the

day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)

3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
5. LF, has been taken 1.0 for population less than one million

(2) Calculation of property damage on application submitted by villager in favour of the applicant against TPPs

(3) Calculation of property/ crop damage was done on the basis of area and tentative loss to crop and rate per hector.

1. M/s TRN Energy Private Limited, Nawapara, Raigarh-

M/s TRN Energy Private Limited (2x300MW) thermal power plant is located in village Bhengari, Nawapara (Tenda), Gharghoda, Raigarh. The plant started its commercial production in 2016 with an average generation of fly ash 4000 MT per day. The thermal power has generated approximately 2879126 MT fly ash during January 2016 to March 2021, out of which 58% (1665007MT) has been disposed in low lying area of village ChoteGumda, Bade Gumda, Nawapara, Tenda and Baansmuda. As per detail submitted by the TPP the area used for disposal of fly ash is approximately 17.378 Hectare.

TRN power has created an ash dump violating EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mudwall leading to fly ash flowing into adjoining field even situation to fly ash into neighboring inhabitants. On field visit on 24-25.08.2021 we have seen that by the side of State High way unscientific fly ash dump has been found , also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Another fly ash dump adjoining to Forest and

nallah in personal land of some villager have been seen, due to cracks and land break /erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda. The top of Dump was at least 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoining field. To prevent the same no remedial measures has been taken by the PP. On current visit dated 25-08-2021 we find that some of the fields have become useless, in agricultural field flowing of fly ash was found. On road side flow we could see the flowing of flyash in heavy quantity. A pretty big area has been covered under flowing of fly ash from this Dump.

Representative from TRN admits all these OB dumps and contended that after obtaining the permission from land owner and Gram Panchayat Fly ash dump have been made .

Although they brought some papers and made attempt to show that they have not violated the Environmental conditions but could not produce permission / consent of State Pollution Control Board. The thermal power plant has also submitted copy of study report conducted in 2018 by ISM Dhanbad which recommends about no metal contamination in ground water due to leaching from fly ash disposed in low lying area.

Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines give liberty to loose disposal of fly ash that's too above ground level.

Chhattisgarh Environment Conservation Board has informed about issue

of closure notice to the industry. TPP has submitted the reply of notice which is under consideration for decision. The representative of the industry have informed about construction of new ash dyke for which land has been acquired in 2017 and Environmental clearance obtained in year 2011.

Ash Dyke belonging to TRN Energy Ltd , on visit we find that at one place wall of the dyke is severely damaged and we apprehended that accident may took place, Shri R.P. Mishra inform the facts for repairs forthwith so as to avoid any unfortunate event. Underground water discharge from dyke is there and the discharged water is flowing to agriculture field. Water samples have been collected. Fly ash flying over the ash dyke has also been seen. Even some of the persons were seen roaming over the dried fly ash lying in the dyke. It appears that there is no recycle water system operating. Construction does not appear to be scientific.

Representatives of TRN does not dispute the damage but they contended that Railway has made dump of the soil in their outer wall and that dump has been eroded due to rain but could not show any evidence to support his contentions. They also stated that as per original permission accorded by MoEC&CC they have constructed this second Ash dyke and for perusal shown the permission letter. In this permission letter there is no sanction of more than one ash dyke even as per deliberation it could come to know that first ash dyke is inside the Plant and this ash dyke has been made outside the plant .Whether ash dyke should have been built in the vicinity of habitants, to reply this question they could not able to show any legal authority or any permission. So far as water discharge is concerned they stated that this water discharge belongs to Railway.

For non compliance of the environmental standard/ violations of legal direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved . TRN is liable for environmental compensation.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s TRN Energy Private Limited, Nawapara is also included in that list for Environmental Compensation of Rs. 1,48,80488 on which Hon'ble Supreme Court vide its order dated 04.11.2019 has directed deferment of the proceedings.

In addition to above and in view of a number of breaches of environmental conditions not earlier considered for compensation, independent Environmental Compensation for following period is calculated as under-

- Initial date of compensation- 01.04 .2020
- Last date of compensation- 30.11.2021
- Number of days- 608
- EC in Rs. 1,82,40,600/- (One Crore eighty two lakhs forty thousand and six hundred)

2. M/s Mahaveer Energy & Coal Benification Limited –

M/s Mahaveer Energy & Coal Benification Limited is Biomass based 12MW Thermal Power Plant located in Village Bhengari, Gharghoda, Raigarh. The plant started its commercial production in 2014 with an average generation of fly ash 20000 MT per annum. The thermal power has generated approximately 139839 MT fly ash during April 2014 to March 2021, out of which 0.04% (56MT) has been disposed in low lying area of village Bhengari. The industry during hearing have submitted documents related with agreement for fly ash use by Sh. Saroj Kumar S/o Sh. Prabhakar Kumar in Brick manufacturing. This agreement was done on 04.12.20 indicating that fly ash generated before 04.12.2020 have been disposed in low lying area. The industry has also provided

copy of revenue records in support of ownership of the land. Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines give liberty to loose disposal of fly ash that's too above ground level. No consent has been obtained from CECB .

The above said notification only permits for reclamation and compaction of fly ash in low lying area but do not give liberty to loose disposal of fly ash that's too above ground level. The oversight committee during its visit have observed heaps of disposed fly ash giving its way to become air borne or flow with rain water in drain leading to surface water contamination.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s Mahaveer Energy & Coal Benification Limited is not included in that list for Environmental Compensation because the industry has submitted report of 100% utilization in manufacturing of fly ash brick to Chhattisgarh Environment Conservation Board which seems to be misleading information given to statutory authority.

Mahaveer Bio Energy has created an ash dump behind its premises in violating the SOP and EC even creating a public hazard. On field visit dated 25-08-2021 we found near a temple there was a fly ash dump adjoining to Forest and River, due to erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground and as per persons gathered there the land is

govt. land recorded as “ChoteJhad Ka Jungle”. No guidelines as prescribed since 1999 have been followed. As per report of committee dated 11-10-2019 it has been found that M/S Mahaveer Energy is indulging in extensive and irresponsible disposal of fly ash in village Bhengari. In that report Fig. 3 Éxtent of fly ash dumping in agricultural land in Bhengari Village close to Bhengari Nala and Fig. 4. 40 feet height flyash dump by M/s Mahaveer Energy in Bhengari village (in the name of low lying areas dump) . On recent visit on 25-08-2021 we saw the spot (Fig.4 of that report) and found that earlier reporting still continues. We also saw evidence of flowing flyash from upper portion to lower portion. On 15-17 March visit it has been noted that Mahaveer Energy has created an ash dump behind its premises the top of dump is at least 10 feet height above the ground level and does not confirm to the SOP for dumping in low lying area, even there is no proper retaining wall around the dump creating a public hazard. In present visit we still found the Dump present in open sky flying ash in environment.

Representative from Mahaveer Bio Energy to defend their action have accepted all those dump but their contention is that because of demand of Mandir Samiti , dump near Mandir has been made , other dump are in their own land , they are using fly ash in making the bricks under their own brick plant and also providing fly ash to other brick plant holder but to support he could not produce land ownership in his name or other documents regarding actual use of fly ash in making the bricks.

For non compliance of the environmental standard/ violations of legal direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved. M/s Mahaveer Energy & Coal Benification Limitedis liable for environmental compensation.

In compliance of Hon’ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of

Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s Mahaveer Energy & Coal Benification Limited is not included in that list for Environmental Compensation because the industry has submitted report of 100% utilization in manufacturing of fly ash brick to Chhattisgarh Environment Conservation Board which seems to be misleading information given to statutory authority.

Environmental Compensation is calculated as under-

- Initial date of compensation- 01.01.2018
- Last date of compensation- 30.11.2021
- Number of days- 1429
- Operation factor considered- 0.5 (small scale- biomass plant)
- EC in Rs. 1,42,90,000/- (One crore forty two lakhs ninety thousand)

3. Penalty/Fine on Principal Secretary Public Works Department, State of Chhattisgarh.

Committee constituted vide order dated 22-07-2019 after due consideration including field visit submitted its report and the recommendations made therein were considered by the NGT vide order dated 27-02-2020

Short term measures

4.1 f. Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

Long term measures

4.2 b) To reduce the pollution and other impacts caused by road transport of coal and mother minerals , direction may be issued that coal transport by road

from coal mines or thermal power plants in these two blocks will be permitted only for a year, after which transport must be done by rail or closed conveyor belt only.

Hon'ble the NGT in order dated 27-02-2020 in para 4 has mentioned that **“We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for protection of environment and public health and environmental rule of law.**

Further compliance review status as on 09-11-2020 has been filed and considered by Hon'ble NGT vide their order dated 20-11-2020.

02. Long Term Measures

REVIEW STATUS AS ON 09-11-2020

As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY 2019-20 after construction of new rail line between Kharsia – Gharghoda- Korichhapar, coal dispatch from Korichhapar railway siding commenced in FY 2019-20. It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2020.

The Committee on field observation has made recommendation as below:-

1. EE PWD was present before committee to apprise the status of PWD roads in the area. Committee has observed very bad road conditions in Tamnar and Gharghoda area which seems to be one of the measure factors for deterioration of ambient air quality. EE PWD Sh. Khamra has informed the committee about requirement of immediate construction of approximate 111 KM CC road (Raigarh to DharamjayGarh about 76 Km and Punjipathra to Milupara about 35n Km.) but due to budget constraint the work is pending since last several years. An amount of Rs. 335Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. More over SECL has paid an amount of 42 Crore to Raigarh PWD for construction of 19 Kms, 7m wide tar road from Gharghoda to Jampali in compliance of NGT order.
2. RECOMMENDATIONS
3. 2.Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget of Rs. 335 Crore (@ Rs 3.00 crore per km) for construction of CC road approximately 111 km length of 7 m width (Raigarh to DharamjayGarh about 76 km and Punjipatra to Milupara about 35 km) and insure its execution before March 2021. In this context time bound action plan

with bank guarantee of Rs. 35 Crore may be obtained from PWD , Chhattisgarh to ensure timely execution of the work.

Hon'ble NGT passed order that Principal Secretary Health and the PWD Department , Chhattisgarh Government may act as per recommendations of the committee. (NGT order dated 20-11-2020)

Further compliance review status as on 15-03-2021 has been filed and considered by Hon'ble NGT vide their order dated 24-06-2021.

f). Proper repairing and maintenance of road outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

REVIEW STATUS AS ON 15-03-2021

EE PWD, Raigarh has informed the committee about requirement of immediate construction of approximate 111 KM CC road (Raigarh to DharamjayGarh about 76 Km and Punjipathra to Milupara about 35n Km.) but due to budget constraint the work is pending since last several years.

Letter issued to PS, PWD, S-1/03 Mahanadi Bhawan, Raipur by this office vide number RDB/NGTOA 104/2018/553 dated 07-09-2020 and 06-01-2021 to sanction Rs. 335 crore for construction of 111 km CC road. No response has been received from PS, PWD Chhattisgarh Government.

FIELD OBSERVATION S

5. EE PWD Raigarh has informed the committee about immediate construction of approximate 111 Km CC road (Raigarh to Dharamjaygarh about 76 Km and Punjipathra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. Hon'ble NGT in its order dated 20-11-2020 (point 5) has instructed PS, PWD to sanction the required fund and ensure execution before March 2021. During field visit execution of the work was not observed, hence the issue was further clarified with EE, PWD, Raigarh who informed as under:-

- > Main High way connecting Raigarh to Dharamjaygarh has now been included in National Highway Scheme*
- >Stretch from Chhal Mines to Gharghoda has been approved for two lanes*
- >Stretch from Punjipathra to Milupara via Tamnar not yet approved*

In view of the above committee has instructed to EE, PWD, Raigarh to identify badly damaged patches in this stretch and prepare a budget and get the same approved so as to complete the work within three months. Stretch from Punjipathra to Milupara via Tamnar has also to be taken on highest priority because of the heavy traffic load on this route.

RECOMMENDATIONS

4. *Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget for 111 km road from Raigarh to Dharamjaygarh and Punjipathra to Milupara via Tamnar and ensure its execution within three months. In this context time bound action plan shall be submitted to ensure timely execution of work.*

FIELD OBSERVATIONS AS NOTED IN PARA 5 OF THE ORDER DATED 24-06-2021.

5. *Improve Road quality to reduce spillage and air pollution- Gharghoda and Tamnar area of Raigarh is extremely in coal mineral and extensively mined by SECL and other private companies. It was observed that very less percent of coal produced in the area is available for existing industries of Raigarh. Most of the coal mined is being transported to nearby areas in Chhattisgarh and other states. Hence road condition of Raigarh plays an important role in deterioration of ambient air quality. In order to ensure better ambient air quality and statistical balance is to be developed between road transport and rail transport. It was found satisfactory that developments of rail network with five coals siding the area are at the stage of completion. Hence it is required to decide a time line for transportation of coal by rail only specially being dispatched to other states. Road transport of coal shall be limited for those power plants operational in Raigarh.*

EE PWD, Raigarh has informed the committee that main highway immediately connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme. Stretch from Chall mines to Gharghoda has been approved for two lane and its strengthening. Stretch from Punjipathra to Milupara via Tamnar (25 km) and stretch from Milupara to Lailung not yet approved.

Action : Since the actual process of constructing the NH will take atleast two years , PWD is instructed to identify badly damaged patches in this stretch and prepare a budget and get the same approved and acted upon immediately (within 3 months). As for as constructions of other stretches are concern PWD

shall take highest priority because these are the stretches with heaviest traffic density.

Hon'ble the NGT in para 8 have observed that Steps need to be taken expeditiously for development of health facilities , constructing necessary road from Raigarh to Dharamjaygarh and from Punjipathra to Milupara,..... In para 9 directed that "The Oversight Committee may make assessment of compensation for the violation on the basis of which the statutory Board may take further action, following due process of law."In para 10 passed order that "We regret to note failure of the concerned departments of the state of Chhattisgarh to respond the Committee and to performs their constitutional obligation to protect environment and public health. Pending taking coercive measures for such failure in due course , we direct the Chief Secretary , Chhattisgarh to ensure necessary action on the part of the concerned department , including PWD and Health on the subject of construction of road and providing Health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries" H

Thrice Hon'ble NGT passed order against PWD and Health Department of State of CG finally apprised them towards penal consequences of disobedience but both these department took the said orders in a very casual manner and even gave a deaf ear to those orders.

Opportunity of hearing for consideration of environment compensation/ penalty has been provided. Intimation was sent to PS PWD Chhattisgarh Government to join the committee meeting on 16th September 2021 for hearing about progress/ constraint observed in delivering the target defined in action plan submitted to Hon'ble NGT. Chief Engineer, Bilaspur and Executive Engineer Raigarh of PWD attended the meeting and briefed the progress as under-

1. An amount of Rs.6274.33 Laks is sanctioned on 08.09.2021 for 27.50 km CC road from Punjipathra to Tamnar.
2. Approval granted on 23.02.2021 for an amount of 2032.95 Lakhs for renovation work of 13.40 km road from Raigarh to Gharghoda.
3. Approval granted on 08.09.2021 for an amount of 1797.25 Lakhs for renovation & Strengthening work of 10 km road from Chaal to Gharghoda.
4. So far as patch repair work is concerned, no documents or material could be produced even otherwise we could not see any repair work going on, on the roads.

All above sanctions and approvals are subject to acquirement of land, Release of Loan and two years' time for completion. Till date there is no progress regarding acquisition of land, sanction of loan, etc. All these facts itself shows that matter has not been given any seriousness or to say in near future the road is not going to be made.

The committee is not satisfied with submission.

Matter to be considered for imposition of Penalty/Fine

From afore stated complete facts it is clear that dept.of PWD did not care to follow the directions of the committee and also did not complied the orders of the Hon'ble NGT even they misguided committee and NGT by informing that road main highway connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme which appears to be not correct because no such document to show that NH has taken over the Road has been provided. Although they received amount from SECL despite that they did not took interest to construct road. Non Construction of road and lack in repair work is one of the reason for pollution caused by road transport even there is no surety that in near future the construction of road will be made by the department. In fact this is a case of deliberate disobedience of remedial measures by the PWD, therefore for environment breach Depart.of PWD is also responsible and therefore cannot escape its liability to pay Penalty / Fine

..

If environmental Compensation is to be levied as per calculation below-

- Start date non- compliance- 07.09.2020

- Last date of compensation- 30.11.2021
- Number of days- 448
- Rate Rs. 30,000 per day
- EC comes to Rs- 1,34,40,000 (One Crore, thirty four lakhs, forty thousand)

But we are of the opinion that Penalty/ fine should be imposed , therefore after due consideration we assess/propose Penaly / Fine imposed on Principal Secretary PWD, State of CG Rs.1,00,00,000/- (Rs. One Crore)

4. Penalty/Fine on Principal Secretary, Health Department,CG Govt.

Committee constituted vide order dated 22-07-2019 after due consideration including field visit submitted its report and the recommendations made there in were considered by the NGT vide order dated 27-02-2020

Short term measures

- g. *Proper and free heath care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (4A 314/2014 CZ) case. (Action by respective coal mine companies).*

*Hon'ble the NGT in order dated 27-02-2020 in para 4 has mentioned that "We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for protection of environment and public health and environmental rule of law. In para 5 have made reference to applicants contentions and passed order in para 6. **In para 6 have ordered that "Mitigation measures for heath issues may be over seen by the Principal Secretary , Health, Govt. of Chhattisgarh. For this purpose , the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary , Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds."**(NGT order dated 27-02-2020)*

Further compliance review status as on 09-11-2020 has been filed and considered by Hon'ble NGT vide their order dated 20-11-2020.

01. Short term measures

g. Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies)

REVIEW STATUS AS ON 09-11-2020

“Mitigation measures for health issues may be overseen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds.”

02. Long Term Measures

b) To reduce the pollution and other impacts caused by road transport of coal and other minerals, direction may be issued that coal transport by road from coal mines or thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail or closed conveyor belt only.

REVIEW STATUS AS ON 09-11-2020

The Committee on field observation has made recommendation as below:-

- 1.*
- 2. RECOMMENDATIONS*
- 3. 1. In order to ensure development of health facilities in the village of mining affected area, Principal Secretary, Health, Chhattisgarh Government may be advised to keep informing the oversight committee about development made in health facilities’.*

Hon'ble NGT passed order that Principal Secretary Health and the PWD Department, Chhattisgarh Government may act as per recommendations of the committee. (NGT order dated 20-11-2020)

Further compliance review status as on 15-03-2021 has been filed and

considered by Hon'ble NGT vide their order dated 24-06-2021.

01. Short term measures

g). Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies)

REVIEW STATUS AS ON 15-03-2021

“Mitigation measures for health issues may be over seen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. Collector Raigarh has assured to arrange the required medical facility in the area by way arranging health screening camps in all villages within next few months.

RECOMMENDATIONS

3. In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the Oversight Committee about development made in health facilities.

FIELD OBSERVATIONS AS NOTED IN PARA 5 OF THE ORDER DATED 24-06-2021.

- 4. Public health facilities and disease screening – The committee has also discussed about requirement of health infrastructure and status of available facilities in Gharghoda and Tamnar area, Collector Raigarh has informed the committee that there are adequate facilities available at Tamnar CHC and at the Fortis – JPL multispeciality hospital at Tamnar. Collector Raigarh has also assured to organize “health Camps” within the next three months in all villages surrounding the mines areas in T & G blocks, and then ensure regular screening after that on a yearly basis.*

Hon'ble the NGT in para 8 have observed that Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipathra to Milupara,..... In para 9 directed that “The Oversight Committee

may make assessment of compensation for the violation on the basis of which the statutory Board may take further action, following due process of law.”In para 10 passed order that “We regret to note failure of the concerned departments of the state of Chhattisgarh to respond the Committee and to perform their constitutional obligation to protect environment and public health. Pending taking coercive measures for such failure in due course , we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned department, including PWD and Health on the subject of construction of road and providing Health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries” H

Thrice Hon’ble NGT passed order and finally apprised them towards penal consequences of disobedience but department took the said orders in a very casual manner and even gave a deaf ear to those orders.

Opportunity of hearing for consideration of environment Penalty/Fine has been provided to the department.

Intimation was sent to PS, Health, and Govt. of Chhattisgarh to join the committee meeting on 16th September 2021 for hearing about progress/constraint observed in delivering the target defined in action plan submitted to Hon’ble NGT. PS Health Chhattisgarh Government could not ensure his presence in person/representative in the meeting.

The documents and information provided about infrastructure of health facilities reveals that health care facilities are insufficient and no serious efforts have been made to improve it even on the direction of Hon’ble NGT.

Hence the matter to be considered for imposition of environmental Penalty/Fine.

- The oversight committee in its report dated 14.10.2019 submitted to Hon’ble NGT had recommended proper and free health care

facilities with multispecialty treatment system may be provided in all coal mine adjacent villages. In this context Hon'ble NGT has given the liberty to PS Health Government of Chhattisgarh to oversee the mitigation measures for health issues. For this purpose the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds.

- In its further order dated 20.11.2020 Hon'ble NGT has directed PS, Health Govt. of Chhattisgarh to keep informing the oversight committee about development made in health facility. In spite of the direction issued by Hon'ble NGT no progress was submitted PS, Health, Govt. of Chhattisgarh to the oversight committee.

- Hon'ble NGT in its order dated 27.02.2020 has directed that *mitigation measures for health issues may be overseen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health, Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. A copy of this order be sent to the CPCB, Principal Secretary, Health, Govt. of Chhattisgarh, Ministry of Coal as well as the MoEF&CC by e-mail.*

- Hon'ble NGT in order dated 24.06.2021 on point number 10 mentioned that
"We regret to note failure of the concerned departments of the State of Chhattisgarh to respond to the Committee and to perform their Constitutional obligation to protect environment

and public health. Pending taking coercive measures for such failures in due course, we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned departments, including PWD and Health on the subject of construction of road and providing health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries. “

Principal Secretary Health neither responded the above orders issued by Hon'ble NGT nor could done any work to protect environment and public health. He not only took all the orders passed by Hon'ble NGT in a very casual manner but also gave a deaf ear to those orders His non involvement in taking remedial measures is one of the reason to increase public health hazard which arose due to air and water pollution. Neither he took part in environmental Penalty/Fine hearing although noticed nor could show any ground to exempt him from levying the Penalty / Fine .

If environmental Compensation is to be levied as per calculation below-

- Start date non- compliance- 27.02.2020
- Last date of compensation- 30.11.2021
- Number of days- 641
- Rate Rs. 30,000 per day
- EC comes to Rs. 1,92,30,000 (One Crore, ninety two lakhs, thirty thousand)

But we are of the opinion that Penalty/ fine should be imposed , therefore after due consideration we assess/propose Penaly / Fine imposed on Principal Secretary PWD, State of CG Rs.1,00,00,000/- (Rs. One Crore)

Calculation of property damage on application submitted by villagers in favour of the applicant against TPPs

1. Applications were against TRN Energy Pvt.Ltd.and against M.s Mahaveer Energy & Coal Benification Ltd. Although copyof the application are been served on these TPPs but they did not file any reply. For hearing against these application, both the parties remained absent. For verification services of concerned Patwari have been taken. As per information provided by the Patwari only 4 persons were found entitled therefore for those persons compensation has been calculated and remaining applications have been rejected.

Calculation of property/ crop damage was done on the basis of area and tentative loss to crop and rate per Quintal

As per report of the area Patwari Govt. has fixed per hector crop 37 quintal and price including bonus Rs.2500/- per quintal of paddy.

The damage claims submitted by the affected villagers and farmers were scrutinized by officials of land revenue departments. They have given the affected area of claimant. Environmental compensation in the shape of damage has been calculated as below, damage claim submitted by villager details of affected land is as under-

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. Ghuraoram Rathia Nawapara	381/01	0.076	7030
02	Sh. Harcharan Rathia & Sh. Malik Ram RathiaKantagdeeh	09/01 09/02	4.411 1.895	408017.5 allowe only Rs.1,11,000/- as claimed

				175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

- - Note- Damage calculated based on productions of 37 quintals per hectare considering rate of crop @ Rs. 2500 per quintal.
 -
 - The committee has decided that as environmental compensation /damage claim will be paid by M/s TRN Energy Private Limited to the affected villagers/ farmers as per above list accordingly.
2. To discuss about carrying capacity study:- Not yet finalized between NEERI and CECB
- CECB, RO, Raigarh to follow up with
3. CGWB- for water recharging point report:- Report not received .
4. DMHO- for providing CHC, PHC detail with staff strength and Government health scheme being implemented in rural area:-Not yet provided .
5. PHED for detail about treatment of fluoride contaminated water in Saratola village: Not yet provided.

Agenda for meeting during 24th-25th November 2021 at Raigarh & Bilaspur-

In order to summarize the assessment of compensation, the committee

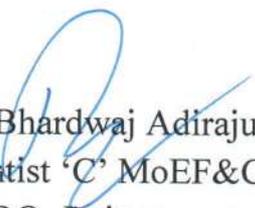
has decided to conduct field visit at Raigarh on 24th November 2021 and the meeting at Bilaspur on 25th November 2021

- A. Physical verification of progress as on 30.11.2021 and Environmental compensations.
- B. Visit to M/s Hindalco Industries Limited -Coal Mines (Gare Pelma Sector- IV/4&5)
- C. Hearing to M/s Hindalco Industries Limited on environmental compensation and assessment of environmental compensation.
- D. Any other issue with permission to Chairman.

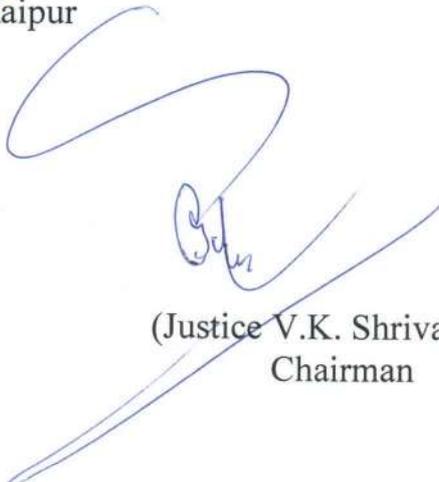
The meeting ended with thanks to Chairman.


(Shri. S.K. Verma)
Regional Officer,
CECB, Raigarh


(Sh. P. K. Gupta)
Deputy Collector,
Raigarh


(Dr. Bhardwaj Adiraju)
Scientist 'C' MoEF&CC
IRO- Raipur


(Dr. R.P. Mishra)
Scientist "D"
CPCB, Bhopal


(Justice V.K. Shrivastava)
Chairman



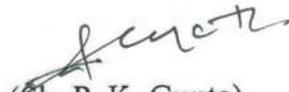
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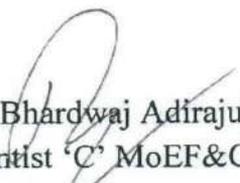
has decided to conduct field visit at Raigarh on 24th November 2021 and the meeting at Bilaspur on 25th November 2021

- A. Physical verification of progress as on 30.11.2021 and Environmental compensations.
- B. Visit to M/s Hindalco Industries Limited -Coal Mines (Gare Pelma Sector- IV/4&5)
- C. Hearing to M/s Hindalco Industries Limited on environmental compensation and assessment of environmental compensation.
- D. Any other issue with permission to Chairman.

The meeting ended with thanks to Chairman.


(Shri. S.K. Verma)
Regional Officer,
CECB, Raigarh


(Sh. P. K. Gupta)
Deputy Collector,
Raigarh


(Dr. Bhardwaj Adiraju)
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IRO- Raipur


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CPCB, Bhopal

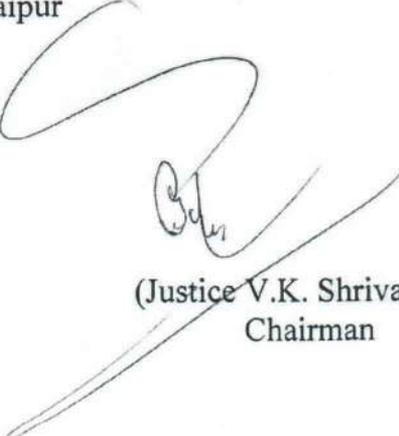

(Justice V.K. Shrivastava)
Chairman



EXHIBIT-05

5th MeetingDate-24th and 25th November 2021

**Minutes of the meeting of Oversight Committee
OA No.104/2018 Shivpal Bhagat & Ors. Vs Union of India & Ors.**

In accordance with decision taken in 4th meeting held on 26-27th October 2021 at Bilaspur, 5th meeting was conducted during 24th and 25th November 2021 at Raigarh & Bilaspur. Sh. Sharachchandra Lele, ATREE, Bengaluru could not attend the field visit and meeting due to his pre-existing commitments (teaching, research and institution-related). The meeting was attended by members as under-

1. Justice V.K. Shrivastava, Chairman
2. Dr. Paras Ranjan Pujari, Senior Principal Scientist, NEERI, Nagpur
3. Dr. R.P. Mishra Scientist 'D' Central Pollution Control Board, Bhopal
4. Dr. Bhardwaj Adiraju Scientist 'C' MoEF&CC, IRO Raipur
5. Sh. P. K. Gupta, DC, Raigarh
6. Sh. S.K. Verma, Regional Officer, CECB, Raigarh

The agenda of the meeting was:-

- A. Physical verification of progress as on 30.11.2021 and Environmental compensation.
- B. Visit to M/s Hindalco Industries Limited -Coal Mines (Gare Pelma Sector- IV/4&5)
- C. Hearing to M/s Hindalco Industries Limited on environmental compensation and assessment of environmental compensation.
- D. Any other issue with permission to Chair.

1. Physical verification of progress as on 30.11.2021 and Environmental

N. J. Srinivasan

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Compensation

Visit of CSPGCL Coal Mines (GarePelma Sector –III) - The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB dump on one



side (Pic-02) of the road was located at approximately 80m distance from road side but OB dump all along road was not within prescribed distance, even on many places it is adjacent to road. Dump process is still continuing. We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Villagers assembled there and applicant's representatives have stated there that because of dump and traffic in road this place has been declared as accidental zone and within a year around 10 persons have been killed in accident. Road condition is very bad. Although in one side Provision of check drains have been seen but appears to be not having width of adequate size, the sludge or waste materials along with water is passing through the agricultural fields and is terminating in nallah. (Subsequently we come to know that this is not a Nala but River) (O.B. Dump in CGSPGCL mine at Gare Palma sector 3 observed on field visit during 15-17 March 2021 on both sides of Public Road). This public road is within the mining area and as stated and shown by company officers present there as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not complied the directions of notification 2009. Although in one side Provision of check drains have been seen but in other side there appears no provision of check drains and garland drains have been made to ensure that the sludge or waste materials does not go into the nullah. (Subsequently we come to know that this is not a Nala but River)

For environmental compensation and for remedial measure CGSPGCL, was required to be heard on Maintenance of Public Road, on illegal OB dump, non use of flyash, non construction of garland drains and proper settling tanks, Sludge and waste materials passing through agricultural field destroying crop production going to Nallah. (Subsequently we come to know that this is not a Nala but River) therefore the mine authorities were instructed to present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission

N. J. Srinivas

from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

Environment compensation hearing dated 14th September 2021. Heard, Chhattisgarh State Power Generation Company Limited Coal Mines (Gare Pelma Sector –III) -

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB Dump has been made on both sides of road even in some places adjacent to road. This public road is within the mining area and as stated and shown by companies officer present there, as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not complied the directions of notification 2009. For Mining operation roads with the mines area is to be constructed by the lessee and lessee has to divert public roads, at his own cost to facilitate scientific mining. We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Condition of the road is bad. The mine authorities were present in hearing meeting with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

The representatives of CSPGCL presented the mining plan in which location of the OB dump is sited on the same place subject to diversion of PWD road passing between lease areas. They stated that CSPGCL has deposited required amount with PWD, Raigarh for diversion of the road. There is no material to know whether PWD is diverting the road or not and if they intend to divert the road, by which time they may start and complete the diversion. Hence storage of OB dump near to public road may create danger to public passing through the road. In this context committee was of the opinion that CSPGCL shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect



the public from accident as well as fugitive emission. CSPGCL shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. CSPGCL shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash OB dump shall be followed.

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron structure up to a height of minimum 3m at 50m distance from road on both side of road along full road length in leased area. The said construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

On verification visit dated 24-11-2021 we found that construction of physical barrier of steel sheet mounted on iron structure was in progress. Mines authorities present there stated that further minimum 15 days time may take to complete the work. They also apprised that CSPGCL could not obtain necessary permission from DGMS for compliance of notification 2009 utilization of 25% of fly ash. M/s CSPGCL vide its letter dated 18.11.2021 requested to DGMS for obtaining permission to use fly ash in its OC mine Gare Pelma sector-III as per study report submitted by CIMFER. Director of Mine Safety, Raigarh vide its letter dated 23.11.2021 has restricted fly ash dumping in the opencast working till submission of clarification for factor of safety (FOS) and suitable geometry of in pit and external dump design by scientific agency.

Violations of environmental conditions and directions as noted above brings the Chhattisgarh State Power Generation Company Limited Coal Mines (Gare Pelma Sector –III) under four corners for payment of Environmental compensation.

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

$$EC= \text{Environmental Compensation in Rs}$$



PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
5. LF, has been taken 1.0 for population less than one million

Environmental compensation is calculated as under-

- The CTO issued on 23.10.2020 has condition of fly ash utilization in stowing.
- Consent condition was amended on 22.06.2021 for utilization of fly ash in OB dump.
- Date of first observation of non-compliance- 17.03.2021
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 253 days

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)

2. Visit of M/s Ambuja Cement Coal Mines (GarePelma Sector- IV/8)- The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit of the committee OB dumping was observed on both side of the road (Pic-03). This public road is passing through the mines area and



N. J. Srinivasan

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utilized by public, Mines operator and coal transporters. No garland drains with proper settling tanks have been constructed. 25% of fly ash as required in 2009 notification for OB dump has not been done. We saw number of coal loaded trucks passing through this road, Road condition is very bad. Ambuja Cement Ltd to be heard on Maintenance of Public Road, on illegal OB dump , non use of flyash , non construction of drains and proper settling tanks . The mine authorities were instructed to present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

Heard, M/s Ambuja Cement Limited Coal Mines (Gare Pelma Sector – IV/8) on Environment compensation on 14th September 2021

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB dump was located very near to road side which was creating danger to public and transport moving on road. The mine authorities were present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

The representatives of M/s Ambuja Cement Limited presented the mining plan in which location of the OB dump is sited at distance of minimum 45m from road side subject to diversion of PWD road passing between lease areas. Officials of M/s Ambuja Cement Limited stated that they have deposited required amount with PWD, Raigarh for diversion of the road but there is no material to know whether PWD is diverting the road or not and if they intend to divert the road, by which time they may start and complete the diversion . Hence storage of OB dump near to public road may create danger to public passing through the road. In this context committee was in opinion that M/s Ambuja Cement Limited shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect the public interest from accident as well as fugitive emission. M/s Ambuja Cement Limited shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. M/s Ambuja Cement



Limited shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash in OB dump shall be followed.

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron structure up to a height of minimum 3m at 50m distance form road on both side of road along full road length in leased area. The said construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

On verification visit dated 24-11-2021 we found that construction of physical barrier of steel sheet mounted on iron structure was in progress. Mines authorities present there stated that further minimum 15 days time may take to complete the work. They also apprised that they could not obtain necessary permission from DGMS for compliance of notification 2009 utilization of 25% of fly ash.

Violations of environmental conditions and directions as noted above brings the M/s Ambuja Cement Limited Coal Mines (Gare Pelma Sector –IV/8) under four corners for payment of Environmental compensation.

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal



Mine & TPP in Red category of Industry

2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
5. LF, has been taken 1.0 for population less than one million

Environmental compensation is calculated as under-

-

- The CTO issued on 23.10.2020 has condition of fly ash utilization in OB dump and stowing.
- Date of first observation of non-compliance- 17.03.2021
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 253 days

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)

3. M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5)

The committee has also visited the site of M/s Hindalco Industries Limited coal mine on 24th November 2021 and found that The mines is divided in two parts. In both parts mines operation is continuing. Back filling was also being done without utilizing fly ash. OB Dump has also been created without utilizing fly ash. Green belt has not been developed, however in OB dump they have planted some ornamental plant like GUL MOHAR, some fruit plant like mango, Guava etc. these plants are very small and their survival is under question. Trees to be planted in green belt or otherwise in mines area are not planted. We could not find garland drain along OB dump and settling ponds. From officials present we could come to know that coal



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extracted from here is supplied to their captive power plant situated in ORRISSA. When they have their own power plant, they are also producing fly ash but are not utilizing their fly ash here in their mines in back filing or in OB dump even they did not tell how they are disposing their own fly ash. M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5) has been directed to be present to defend their liability to pay environmental compensation in environmental compensation hearing on 25.11.2021 at Bilaspur with all relevant documents.

Heard M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5) on 25-11-2021 on assessment of environmental compensation.

Representatives from M/s Hindalco Industries Limited –COAL MINES (Gare Pelma IV/4 & 5) appeared and contended that they have on mobile connectivity contacted DGM for permission and guidance for utilization of fly ash, who gave a date for their inspection. They stated that after getting permission from DGM they may take steps to utilize Fly ash in back filling and OB Dump.

The mine is found divided in two parts. In both parts mines operation was continuing. Back filling was also being done without utilizing fly ash. OB Dump has also been created without utilizing fly ash. Green belt has not been developed, however in OB dump they have planted some ornamental plant like GUL MOHAR, some fruit plant like mango etc. these plants are very small and their survival is under question. We could not find garland drain along OB dump and settling ponds. From officials present we could come to know that coal extracted from here is supplied to their captive power plant situated in ORRISSA. When they have their own power plant, they are also producing fly ash but are not utilizing their fly ash here in their mines in back filing or in OB dump even they did not tell how they are disposing their own fly ash.

M/s Hindalco Industries Limited was to provide adequate garland drain along with OB dump with sufficient number of settling ponds to ensure suspended solid free discharge of storm water in rainy season. Hindalco Industries Limited was to comply with the provisions of notification 2009



for utilization of 25% of fly ash in OB and back filling. They were also required to develop proper Green Belt.

In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

$$EC = PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million

- The CTO issued on 02.01.2020 has condition of fly ash utilization in OB dump and stowing.
- Date of first observation of non-compliance- 02.01.2020
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 698 days

EC in Rs. 2,09,40,000/- (Two Crore, nine lakhs forty thousand)



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4. **Visit of Gare Palma IV/01 OC Mines- The captive power plant of M/s Jindal Steel & Power Limited,** Dongramau has permission for disposal of its

fly ash in Gare Palma IV/01 open cast mines. During visit of the committee on 24th August 2021 it was observed that fly ash mixed with OB being disposed near Nalah passing in mining lease area. (PIC- 07) The distance between disposal site and Nalah seems to be less than 500m and during rainy season fly ash may take a way to River kelo through Nalah. The issue has been considered as negligence in selection of site and M/s JSPL has been directed to be present in environmental compensation hearing meeting on 15.09.2021 at Bilaspur with all documents EC, Consent and quantity of fly ash disposed and remediation proposal if any.



On environmental compensation hearing representative from JSPL were present who have been heard and findings recorded that captive power plant of M/s Jindal Steel & Power Limited, Dongramau has permission for disposal of its fly ash in Gare Palma IV/01 open cast mines. During visit of the committee on 24th August 2021 it was observed that fly ash mixed with OB being disposed near drain/ Nala (a watercourse) passing in mining lease area. The distance between disposal site and drain seems to be less than 500m and during rainy season fly ash may take a way to River Kelo through drain/ Nala (a watercourse). The issue has been considered as negligence in selection of site and M/s JSPL has been directed to shift the same on or before 30.11.2021.

On verification on 24-11-2021 we found that fly ash mixed with OB being disposed near drain/ Nala (a watercourse) passing in mining lease area has been removed.. M/s JSPL vide its letter dated 28.10.2021 addressed to Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh



has informed about removal of OB on 24.10.2021. The committee has also visited the site on 24th November 2021 and found that all OB dump was removed from the site. In view of noncompliance from 24th August 2021 to 24th October 2021 (62 days) EC may be imposed.

N. J. Singh

In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million

Date of observation of noncompliance- 15.09.2021

Date of observation of compliance – 24.10.2021

Hence EC (in Rs) = 30,000 X 39 = 11,70,000/- (Eleven Lakhs seventy thousand Only)

5. M/s Jindal Power Limited, Tamnar, Raigarh-

It was reported in over sight committee visit on 17.03.2021 about leakage of fly ash slurry from ash dyke of M/s Jindal Power Limited. The committee had suggested M/s JPL to conduct study through a research organization of national repute to determine the stability of the existing



ash dyke and take measures required to strengthen as needed. In order to take the status, the oversight committee once again visited the sight on 24th August 2021. Although spot shown by the officials of the JPL we could not observe leakage on that area from the dyke but we are not sure about other part of the dyke. The committee has discussed in details about process adopted for repair of the leakage and directed M/s JPL to submit the authentic report about strength of repairing undertaken and the stability report of the existing ash dyke from research organization of national repute on or before 30-11-2021.

JPL after complying the direction have submitted stability report conducted by NIT Raipur but did not file any documents to show details about process adopted for repair of the leakage or to establish repair conducted by competent person/ authority therefore is liable for Environmental compensation from 17-03-2021 to 24-08-2021

In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

$$EC=PI \times N \times R \times S \times LF$$

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are



large units.scale

5. LF, has been taken 1.0 for population less than one million
 - The Environmental condition has been violated from 17-03-2021
 - Date of first observation of non-compliance- 17-03-2021
 - Date of compliance taken for assessment-24-08-.2021
 - Number of days for non-compliance- -161days
 - Determination of Environmental Compensation (EC)
 - Hence EC (in Rs) = 30,000 X161 = 48, 30,000/- (Forty Eight Lakhs Thirty thousand Only)

6. Shri Sharachchandra Lele, One of the member has vide postal communication dated 04-Aug2021 raised two points for consideration but after first meeting did not turn up to prosecute these points therefore in his absence we are constrained to take those points for considerations.

7. Shri (Dr.) Sharachchandra Lele's contention in brief is that "their recommendation regarding is continuing no further disposal of flyash in low lying area has been accepted by Hon'ble NGT in order dated 27-02-2020 but it appears that dumping is continuing and Hon'ble NGT's order dated 27-11-2020 inadvertently introduced some confusion by saying that "the applicant has given suggestion to the effect that flyash dumping in low- lying area should be insured . Hon'ble NGT in its order dated 27-02-2020 has considered the recommendations. In para 4 has mentioned that "We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for protection of environment and public health and environmental rule of law. In para 5 have made reference to applicants contentions and passed order in para 6. So far as Order dated 20-11-2020 passed by Hon'ble NGT is concerned Hon'ble NGT in para 6 stated that "Further the applicant has given suggestions by way of written submissions filed on 18-11-2020, inter alia to the effect that contaminated sites be seen, fly ash dumping in low – lying areas be ensured and such



dumping should not be in unscientific manner. The legacy fly ash dumps may be remediated. Hon'ble NGT after quoting submissions of the applicants have ordered that "The above suggestions may be duly considered by the concerned authorities and the committee which may be co-ordinated by CPCB. In view of the above we did not find any substance to revise our recommendation again.

8. Another grievance raised by Shri (Dr.)SharachchandraLele is that there was no discussion about the content of the new ToR during the March field visit or meeting in Collector's office nor any discussions regarding to whom to invite for the study. The 30thMarch letter to NEERI was issued without any decision to that effect having been taken by the committee. His further grievance is that NEERI is also represented on the Oversight Committee therefor there is an apparent conflict of interest in the Oversight Committee commissioning NEERI to carry out the study. After study when report is to be vetted again conflict of interest will take place. Further contentions is that the ToR sent to NEERI has not been framed by the Committee to cover clear picture of carrying capacity.
9. Shri (Dr.) Sharachchandra Lele, PhD himself has recognized National Environmental Engineering Research Institute an excellent nationally recognized research organization in this field. Recommendations made by the Committee from time to time and concurrence given to the same by Hon'ble NGT from time to time , does not require to made any further recommendation contrary to earlier given.

10. EXECUTION APPLICATION FILED BY APPLICANTS BEFORE HON'BLE NGT NO.11 OF 2021. Shivpal Bhagat Applicant No. 1 in OA No. 104/2018 has filed application seeking compliance and execution of order dated 27-02-2020 passed by Hon'ble NGT. On 20-10-2021 only one E-mail received having 2 letters. In one E-Mail learned counsel for the applicant has disclosed that "Albeit filed, EA 11/2021 was not on board on the said date. However, during the hearing, an oral submission on behalf of the applicant had been made with regard to submitting the attached application for considering by Ld. Committee. In furtherance to the submission, please find below the application that has been so filed.



We bring to your kind attention that the same had been forwarded on an earlier occasion as well. It is requested that the submission of the applicant be also considered by the Committee while formulating a report as per the orders of the Hon'ble NGT."In another letter they have written that "we had filed the above mentioned Execution application before the Hon'ble Tribunal seeking compliance and execution of order dated 27-02-2020 passed by Hon'ble Tribunal in Original application. The contents of the Execution application were brought to the notice of the Hon'ble Tribunal and it was opined by the hon'ble Tribunal that since the committee has taken cognizance of the matter, it would be appropriate that the issue raised in the Execution Application be considered by the committee. In light of the above, you are requested to consider the Execution Application attached herein below as representation on behalf of Applicant No. 1.

11. This execution application is pending before Hon'ble the NGT for determination, consideration and decision. There is no order from the Hon'ble NGT, to consider this execution application as representation of applicant no. 1 and to consider while formulating a report. The matter is sub judice therefore we do not find it appropriate to consider while formulating our report. In view of the above, the prayer made by the applicant to consider this execution application as representation of applicant no. 1 and to consider while formulating a report stands disposed of.

12. APPLICATIONS SAID TO BE FOR DAMAGES :- RO Raigarh on 24-11-2021 shown some of the photocopies of villagers applications. He was asked to present those photocopies on 25-11-2021 for consideration in meeting and advised to call concerned patwari if available. On 25-11-2021 Patwari Parmeshwar Netam attended the meeting to whom those papers have been given for verification. Some of the application falling in his jurisdiction, he after verifying his record reported "not related to personal land". On scrutinizing all those application, they are not found in order and appear to be not related to environmental compensation, accordingly those applications stands disposed of.



Part-A Shortterm Action Plan:-

- (1) Whether CECB amended the consent conditions of all TPP and Coal mines. –

Complied

- (2) Whether M/s Ambuja Cement Coal Mines, M/s Hindalco Limited Coal Mine and M/s CSPGCL (Chhattisgarh State Power Generation Company Limited) Mines are accepting fly ash for disposal through OB and back filling.

Not accepting the fly ash, CECB has asked them to obtain permission from DGMS for fly ash backfilling on or before 31st August 2021. After due considerations and due hearing they have been assessed with Environmental compensation for violation of environment conditions,

- (3) Whether CECB constituted State level Committee to look into Scientific Utilization of fly ash in the Chhattisgarh State? –

Oversight committee in its meeting dated 27.11.2020 has decided to write Chairman, CECB for constitution of State level Committee for permitting about utilization of fly ash for reclamation of low lying areas and in stowing of abandoned mines/queries only after ensuring the implementation of guidelines prepared by CPCB as per MoEF&CC notification No.SO 763(E) dated 14-09-1999. The decision was taken for giving effect to observations made by Hon'ble NGT in para 6 of their orders 20.11.2020.

“Further, the applicant has given suggestions by way of written submission filed on 18.11.2020, inter-alia to the effect that contaminated sites be seen, fly ash dumping in low-lying areas be ensured and such dumping should not be in unscientific manner. The legacy fly ash dumps be remediated. Air and land pollution due to



fire in the coal mines be remedied. Coal transportation by trucks must be done on scientific basis 13 and transportation by conveyor belts be preferred. Road maintenance be improved. Continuous Ambient Air Quality Monitoring Station (CAAQMS) be installed. Steps be taken for recharge of the ground water. Water supply to the concerned villages be provided by pipes.”

In this context Nodal Officer of the oversight committee has written a letter to Chairman, CECB on 26.02.2021(RD/BPL/NGT OA-104/2018/202) for constitution of State level committee for utilization of fly ash for reclamation of low lying area, and in stowing of abandoned mines/quarries.

In this context, Member Secretary, CG Environment Conservation Board, Raipur, appraised us that State level committee has been constituted a long back and now has been reconstituted on 24.01.2019. This reconstituted committee is termed as monitoring committee constituted by Chhattisgarh Government to monitor the utilization of Fly ash in accordance to MoEF&CC notification SO 2804 (E) dated 03.11.2009. This committee is also responsible to ensure implementation of clauses 7, 8(i) & 8 (ii) of MoEF&CC notification SO 2804 (E) dated 03.11.2009 which reads as:-

“(7) No agency, person or organization shall within a radius of hundred kilometers of a coal or lignite based thermal power plant under take or approve or allow reclamation and compaction of low-lying areas with soil; only fly ash shall be used for compaction and reclamation and they shall also ensure that such reclamation and compaction is done in accordance with the specifications and guidelines laid down by the authorities mentioned in sub-paragraph (1) of paragraph 3.

(8)(i) No person or agency shall within fifty kilometers (by road) from coal or lignite based thermal power plants, undertake or approve stowing of mine without using at least 25% of fly ash on weight to weight basis, of die total stowing materials used and this shall be done under the guidance of the Director General of Mines Safety (DGMS);

Provided that such thermal power stations shall facilitate the availability of required quality and quantity of fly ash as may be decided by the expert committee referred in subparagraph (10) for this purpose.

(ii) No person or agency shall within fifty kilometers (by road) from coal of lignite based thermal power plants, undertake or approve without using at least 25% of fly ash on volume to volume basis of the total materials used for external dump of overburden and same percentage in upper benches of back filling of opencast mines and this shall be done under die guidance of the Director General of Mines Safety (DGMS);

N. J. S. P. M.

Provided that such thermal power stations shall facilitate the availability of required quality and quantity of fly ash as may be decided by the expert committee referred in subparagraph (10) for this purpose.”

When there is already one statutory committee for monitoring and facilitating implementation of notification at the respective State Government level, there appears no need for constitution of another committee for the same work in the same field.

- (4) Whether as per precondition of SOP Power plant/land owner / agency have obtained statutory permission from regulatory authority SPCB.

After SOP 28-08-2019 issued by MoEF&CC. In compliance of guidelines issued by CPCB clause 5.2 in cases of Reclamation of low lying area using fly ash permission from regulatory authorities such as SPCB as per the requirement .If non compliance is reported, in that case competent authorities may take appropriate decision.

- (5) Whether M/s Hindalco Limited is providing tap water in villages Kondkel in co-ordination with PHED.

Complied (M/s Hindalco Limited has started Giving water to Villagers of Kondkhel and more over NEERI, Nagpur in its report informed about normal depth of ground water level in the village)

- (6) Whether CCTV has been installed by M/s HINDLCO Industries Limited, SECL Gare Palma IV/2 &3, M/s Ambuja Cement Coal Mines, M/s CSPGCL Coal Mines.

Complied. CCTV should have connectivity with CECB.

- (7) Whether CAAQMS has been installed in all coal mines having its connectivity with CPCB/CECB servers.

M/s CSPGCL mine has installed two CAAQMS and remaining is not complied. May its installation takes time but on this excuse

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concerned proponents are not entitled for excuse. CECB to issue directions to concerned proponents.

- (8) Whether IRCON has completed work, 14 KM rail line from Gharghoda-Bhalumunda-Gare Palma and 5 number of coal siding in Tamnar and Gharghoda area.

To be Completed by December 2021.

- (9) Whether proper repair and maintenance of Road have been done outside the mine area by PWD and mining companies.

Not Complied, Penalty/Fine levied on Principal Secretary, PWD, State of Chhattisgarh.

- (10) Whether proper and free health facilities with multi speciality treatment systems have been provided in all coal mine adjacent villages.

Not Complied, Penalty/Fine levied on Principal Secretary, Health Department, State of Chhattisgarh.

- (11) Whether MoEF&CC has submitted compiled response received from coal mines relating to Green Belt developments as per EC conditions.

Yes. On Papers although Project Proponents have tried to show that they are doing the plantation work, but there is distinction between plantation and Green belt development therefore as per mining plan coal mines shall develop green belt and on OB dumps shall grow prescribed species of tree and as per CPCB guide lines 2019 TPP shall develop green belt.

- (12) Whether CMD SECL issued any permission for utilization of abandoned mines for disposal of fly ash.



CECB vide its letter number 318 dated 10.05.2021 has made allotment of fly ash disposal in void of Domnara OC mine (Abandoned) of Raigarh but no progress observed on ground, Only one abandoned mine is there for filling of fly ash but the same has been allotted to five companies situated in different area and with different quantities. This allotment has been done in complete violation of "GUIDELINES OF CIL OFFERING MINES VOIDS FOR FLY ASH DISPOSAL The guidelines is a complete code and following that only mines was required to be allotted and compliance should have been made. CECB should ask Coal India Ltd to follow their own guidelines from inception of allotment of Mine void till disposal of fly ash and after closure of the site till reclamation.

- (13) Whether Carrying Capacity Study in the area has been completed by Chhattisgarh Environment Conservation Board.

No. Negotiation between NEERI and CECB is in progress,

PART-B LongtermAction Plan:-

Shall be considered on next meeting.

PART -C ENVIRONMENTAL COMPENSATION

Hon'ble NGT has directed that the Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law.

Environmental Compensation *Penalty/Fine* have been calculated for non-complying industries and departments. The details are as under-

Sl.	Name of the industry / department	<i>Penalty/Fine</i>
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N. J. Joshi

No		EC amount in Rs
01	Principal Secretary Public Works Department Chhattisgarh Government	1,00,00,000
02	Principal Secretary State Health Department Chhattisgarh Government	1,00,00,000
03	M/s TRN Energy Private Limited, NawaparaRaigarh	1,82,40,600/-
04	M/s Mahavir Energy and coal beneficiation Limited	1,42,90,000/-
05	M/s Hindalco Industries Limited Coal Mine	2,09,40,000/-
06	M/s Ambuja Cement Limited Coal Mine (GP IV/8)	75,90,000/-
07	M/s Jindal Steel & Power Limited, Dongramau, Tamnar	11, 70,000/-
08	M/s Chhattisgarh State Power Generation Company Limited	75,90,000/-
09.	M/s Jindal Power Ltd, Tamnar	48,30,000/-

Environmental Compensation against TRN Energy PVT. LTD. have been calculated for damage to property of individuals. The details are as under-

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. GhuraoramRathiaNawapara	381/01	0.076	7030
02	Sh. HarcharanRathia &	09/01	4.411	4,08,017.5

N. J. P. M.

				allowed only Rs.1,11,000/- as claimed.
	Sh. Malik Ram Rathia Kantagdeeh	09/02	1.895	175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

Agenda for meeting during 6-7th December 2021 at Bilaspur-

In order to summaries the status as on 30.11.2021 in the matter, and to make recommendation on short term measure and long term measures and other matters, committee has decided to conduct the final meeting at Bilaspur during 6-7th December 2021.

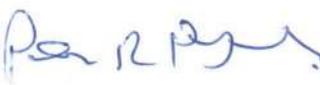
The meeting ended with thanks to Chairman.


(Shri. S.K. Verma)
Regional Officer,
ECB, Raigarh

(Sh. P. K. Gupta)
Deputy Collector
Raigarh


(Dr. Bhardwaj Adiraju)
Scientist 'C' MoEF&CC
IRO- Raipur


(Dr. R.P. Mishra)
Scientist "D"
CPCB, Bhopal


(Dr. P.R. Pujari)
Senior Principal Scientist,
NEERI, Nagpur


(Justice V.K. Shrivastava)
Chairman



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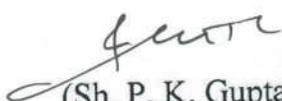
				allowed only Rs.1,11,000/- as claimed.
	Sh. Malik Ram Rathia Kantagdeeh	09/02	1.895	175287.5 allowed Rs.1,11,000/- as claimed
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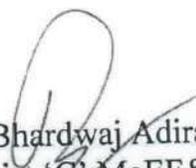
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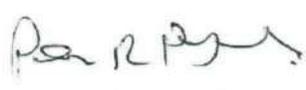
The meeting ended with thanks to Chairman.


(Shri. S.K. Verma)
Regional Officer,
ECB, Raigarh


(Sh. P. K. Gupta)
Deputy Collector
Raigarh


(Dr. Bhardwaj Adiraju)
Scientist 'C' MoEF&CC
IRO- Raipur


(Dr. R.P. Mishra)
Scientist "D"
CPCB, Bhopal


(Dr. P.R. Pujari)
Senior Principal Scientist,
NEERI, Nagpur


(Justice V.K. Shrivastava)
Chairman

Item No. 04

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 104/2018
(I.A. No. 382/2020, I.A. No. 25/2021 & I.A. No. 97/2021)

(With report dated 17.03.2021 & 16.04.2021)

Shivpal Bhagat & Ors.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 24.06.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Ms. Kanika Agnihotri, Advocate for Applicant no. 1
Mr. Saurabh Sharma, Advocate for Applicants no. 2 to 6

Respondent: Mr. Raj Kumar, Advocate for CPCB
Mr. Ashish Kumar, Advocate for M/s Jindal Steel & Power Ltd.

ORDER

1. The issue for consideration is the remedial action against pollution caused by the Thermal Power Plants and Coal washeries in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh, including M/s Jindal Power Limited, M/s Jindal Power and Steel Limited, M/s TRN Energy Private Limited, M/s Mahavir Energy & Coal Benefaction Limited, M/s. Hindalco Industries Limited and M/s. Monet Energy Limited, SECL. Operation of said units is resulting in contamination of air, water and land and having adverse impact on the environment and the habitants. Water and soil have toxic metals, having potential for health hazard, requiring



monitoring of emissions, making the polluters accountable and regulating the polluting activities.

2. The matter has been considered earlier and under direction of this Tribunal, an Expert Committee furnished its report dated 14.10.2019 after visiting the sites and considering earlier reports on the subject. The Committee considered the mitigation measures required to be adopted by the Thermal Power Plants and the Coal washeries. The Committee found that the issue of ground water depletion, soil pollution, forest loss and livelihood loss were required to be addressed for which short term and long terms measures were suggested. The Tribunal directed remedial action for dealing with the deficiencies accordingly. Further direction was to review the existing arrangements and furnishing a further report. The operative part of directions in the order dated 27.02.2020 is as follows:

“3. Accordingly, a report dated 14.10.2019 has been filed by the CPCB on behalf of the Committee on 15.10.2019. The Committee visited various sites and considered the earlier reports, including maps and the data of air quality as well as water pollution. The Committee then considered the mitigation measures prescribed and their current status including installation of Electro-Static Precipitators (ESPs) and Fluidized Gas Desulfurizers (FGDs) in the Thermal Power Plants. The committee also considered ground water depletion, soil pollution, forest loss and livelihood loss and after detailed study of various aspects made following recommendations:

“4. RECOMMENDATIONS:

Based on the above observations, the committee recommends a set of short-term and long-term measures.

4.1 Short-term measures

- a. *Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling. (Action by respective Coal mine companies).*
- b. *Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP companies to be permitted and all Gram Panchayats in Raigarh*



district to be directed to stop issuing NOCs for the same.

- c. Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing **closed conveyor belts** and no such coal transport should be allowed via trucks. (Action by SECL).
- d. Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pretreatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically, the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms.
- e. Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information. (Action by respective coal mine companies).
- f. Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles. (Action by Public Works Department and respective mining companies). Indian Railways to be directed to submit a time-bound action plan for commissioning of the railway line in Tamnar and Gharghoda blocks to ensure all coal transportation by rail.
- g. Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies).
- h. Strict vigilance by MOEFCC for green belt development compliance as per EC conditions.
- i. We also recommend that **no further conversion of UG mines to Open Cast mines** be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major noncompliance in pollution control and social cost (rehabilitation).

4.2 Long-term measures

a) Based on evidence summarised above, the committee is of the opinion that the Tamnar-Gharghoda block region is close to exceeding its environmental carrying capacity. However, the precise extent of current environmental load and the likely impacts of future mining and industrial activities has to be worked out through a detailed and comprehensive **environmental load carrying capacity study, to be carried out by a reputed environmental research institute or a consortium of such institutes over a 24-month period.**

i) The study must cover dimensions of air pollution (especially PM_{2.5}), water pollution and ground and surface water depletion, soil contamination, forest and biodiversity loss, and social and health impacts.

ii) Moreover, given the geography of the region, the study must assess the carrying capacity separately for two different subregions: the northern Tamnar (coal mining related) block and Gharghoda block. Moreover, since Chhal open cast mine located in southern Dharamjaigarh block is located on the bank of Mand River and therefore in an eco-sensitive zone, a baseline study of this region may also be carried out. The southern Tamnar subregion has already been studied for environmental load carrying capacity by IIT Kharagpur (report submitted to CECB in 2018) and it has already recommended strict regulation of any further industrial development in particular parts of the sub-region through a high-level committee.

iii) Mode of commissioning of this study may please be decided by the Hon'ble NGT, and necessary directions may please be issued accordingly.

b) To reduce the pollution and other impacts caused by road transport of coal and other minerals, directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail or closed conveyor belt only.

c) Condition of greenbelt development may be incorporated at TOR stage of EC application to ensure that greenbelt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by MOEFCC. Further, while granting TOR, EAC should specify the location of the greenbelt to provide buffer

between coal mine and human settlements, and specify a sufficient width of the greenbelt for the same.

- d) Ministry of Coal be directed to include the necessary provisions **to ensure the acceptance of fly ash** in coal mines for disposal through OB dump and back-filling as per fly ash notification of 2009.”

4. We find that the recommendations are based on relevant studies and need to be implemented by the concerned power plants and mines in the area for protection of environment and the public health and the environmental rule of law.

5. The applicants have, while broadly expressing satisfaction with the report, made certain suggestions. First suggestion of the applicants is that carrying capacity assessment must be expeditiously carried out and till such assessment is done, expansion and new projects should be only after thorough evaluation. Further suggestion is that there should be a mechanism to oversee the remedial measures, including oversight of health mitigation measures suggested by the Committee.

6. **We are of the view that since serious deficiencies have been found and there is potential for damage to the environment as observed in the report, the ‘Precautionary’ and ‘Sustainable Development’ principles require that any further expansion or new projects in the area should be allowed after thorough evaluation only and mechanism for remedial measures should be in place, including oversight of measures for health mitigation. The Committee already constituted in terms of order of this Tribunal dated 22.07.2019 will act as an Oversight Committee. The nodal agency for the purpose will be the CPCB. Meeting of the Committee may be held at least once in two months or at such interval as may be decided by the Committee. Mitigation measures for health issues may be overseen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health, Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. The Committee may give a status report on the issue as on 30.06.2020 by 15.07.2020 by e-mail at judicial-ngt@gov.in. The Oversight Committee may issue appropriate directions to the project proponents for other remedial measures.**

7. **The above report may be looked into and acted upon by the Ministry of Coal as well as MoEF&CC for such further action as may be necessary.”**

3. The matter was last considered on 20.11.2020 in the light of CPCB report dated 17.11.2020 giving the compliance status with reference to



directions of this Tribunal in a tabular form and also making further recommendations inter alia on the subjects of providing health facilities for the victims, construction of roads and availability of abandoned coal mines. Accordingly, the Tribunal issued directions to the Health and PWD Departments of Chhattisgarh Government and South Eastern Coal Fields. The Tribunal also directed consideration of suggestions of the applicants for taking due precautions in the course of dumping in low lying areas. The discussion and recommendations in the said order are reproduced below for ready reference:-

“3. Accordingly, report has been filed by the CPCB on 17.11.2020 giving the status of compliance of the recommendations in a tabular form as follows:

S. No.	Orders of the Hon'ble NGT from recommendations in the report, November 2019	Compliance Review Status on 09.11.2020
01	Short term measures	
a)	Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling. (Action by respective Coal mine companies).	Three SECL mines are found complying. Letters were issued to SECL Chaal OC, Monnet Ispat, HINDALCO Limited and M/s Ambuja Cement Ltd. M/s HINDALCO mines informed about no OB dump because of continuous back filling of mined area with OB as per Approved mining plan. M/s Monnet Ispat Mines has been taken over by SECL. No response received from M/s Ambuja Cement Limited. More over CEA vide its letter dated 14.02.2020 has informed about declaration of abandoned mines on recommendation of task force. The list includes 24 abandoned OC mines of Chhattisgarh to be used for filling of fly ash generated from TPP. Process of allocation no of these mines to TPP of Chhattisgarh is under taken by CECB and is on advance stage. Annexure-II
b)	Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP	District Collector of Raigarh has issued letter to concerned department for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly Ash.

	<i>companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.</i>	During visit of the committee, disposal of fly ash in low lying area was not observed. Annexure-III
c)	<i>Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks. (Action by SECL).</i>	Based on the observation of CECB, RO, Raigarh, it seems to be complied.
d)	<i>Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pre - treatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically, the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms.</i>	The representative of PHED present during visit of the committee has informed that PHED established water testing laboratory at Gharghoda and Raigarh for testing of drinking water quality of the area. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. (Annexure-IV) The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tap water in village and ensure quality of water in coordination with PHED Raigarh.
e)	<i>Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information. (Action by respective coal mine companies).</i>	- As per field report by CECB, RO, Raigarh it seems that CCTV has been installed by M/s HINDALCO Industries, SECL Gare Palma IV/2 & 3, SECL Chhal. SECL Gare Palma IV/1. At the time of visit M/s Monnet Ispat Mines were not found operational. - In case of installation of CAAQMS all the mines have informed that as per mandatory conditions of EC and CTO fixed location ambient air Quality monitoring is being conducted by the units and reports are regularly submitted to MoEF&CC and CECB.
f)	<i>Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load</i>	- Letter issued to PS, PWD, S1/03, Mahanadi Bhawan, Raipur by this office vide number RDB/ NGTOA-

	<p>carrying vehicles. (Action by Public Works Department and respective mining companies). Indian Railways to be directed to submit a time-bound action plan for commissioning of the railway line in Tamnar and Gharghoda blocks to ensure all coal transportation by rail.</p>	<p>104/2018/553 dated 07.09.2020. EE PWD was present before committee to appraise the status of PWD roads in the area. Committee has observed very bad road condition in Tamnar and Gharghoda area which seems to be one of the major factors for deterioration of ambient air quality. EE PWD Sh. Khamra has informed the committee about requirement of immediate construction of approximate 111 Km CC road (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. More over SECL has paid an amount of 42 Crore to Raigarh PWD for construction of 19 kms, 7m wide tar road from Gharghoda to Jampali in compliance of Hon'ble NGT order.</p> <p>- IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44 Km Railway line work from Kharsia-GharghodaKorichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghodabhalumuda- Gare Palma will be completed by June 2021. Rail line work from Karichhapar - Kurumkela-Dharamjaygarh will be completed by December 2020. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 03 coal siding and made 01 siding operational, 02 more siding will be made operational by December 2020. As informed by the representative of Indian Railway rest 02 sidings shall be completed by March 2021. (Annexure-V) Compliance in Progress</p>
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g)	Proper and free health care facilities with multispecialty treatment system may be provided in all coal mineadjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies).	Mitigation measure for health issues is to be overseen by the Principal Secretary, health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds.
h)	Strict vigilance by MOEF&CC for green belt development compliance as per EC conditions	MoEF&CC has started close monitoring for green belt development in all coal mines. Compliance in progress.
i)	We also recommend that no further conversion of UG mines to Open Cast mines be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major noncompliance in pollution control and social cost(rehabilitation).	Letter has been issued to MoEF&CC (IA-Coal) for implementation of restriction on conversion of UG coal mines to OC coal mines in Tamnar and Garghoda area of District Raigarh.
02 LONG TERM MEASURES		
a)	Commissioning a detailed and comprehensive environmental load carrying capacity study (as mentioned in NGT order), to be carried out by a reputed environmental research institute over a 24 month period.	The matter was discussed with CPCB HO and got advised to include the project in State EC fund as defined by Hon'ble NGT. In order of this proposal for the same has been prepared by CECB and submitted to CPCB for compilation of all project and submission before Hon'ble NGT. Annexure-VI Compliance in progress.
	Mode of commissioning of this study may please be decided by the Hon'ble NGT and necessary directions may please be issued accordingly	
b)	To reduce the pollution and other impacts caused by road transport of coal and other minerals directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail of closed conveyor belt.	As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY-2019-20 after construction of new rail line between Kharsia-Gharghoda-Korichhapar. Coal dispatch from Korichhapar railway siding commenced in the FY2019-20. It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2020.
c)	Condition of green belt development may be incorporated at TOR stage of EC application to ensure that green belt work shall be in place at the time of final presentation for obtaining EC,	Copy of Hon'ble NGT order dated 27.02.2020 has been sent to IA-Coal on 18.09.2020 for further necessary action by MoEF&CC.

	<i>which shall be verified by MoEF&CC. Further while granting TOR, EAC should specify the location of the green belt to provide buffer between coal mine and human settlements and specify sufficient width of the green belt for the same.</i>	
d)	<i>Ministry of coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and backfilling as per fly ash notification of 2009.</i>	<i>Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh has been submitted to be used for filling of fly ash generated from TPP. Process of allocation of these mines to TPP of Chhattisgarh is under taken by CECB and is on advance stage.</i>

4. The Committee has also made field observations and recommendations as follows:

“FIELD OBSERVATIONS:

1. Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh has been submitted to be used for filling of fly ash generated from TPP. Member Secretary CECB has informed about considering mine wise allocation of abandoned coal mines as declared by CEA vide its letter dated 14.02.2020. The co-operation of SECL is not satisfactory as many applications of TPP of Tamnar & Gharghoda area are lying unattended by SECL.
2. District collector, Raigarh has issued letter to concern departments for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly ash. During visit committee has observed restriction on fly ash disposal in low lying areas particularly in agricultural fields of the villages.
3. In compliance of letter issued by Nodal Officer of the committee on 07.09.2020 to PS, PHED, Raipur, it was informed that PHED has established water testing laboratory at Gharghoda and Raigarh for testing of drinking water quality of the area. PHED, Raigarh has also established 06 control rooms and circulated the contact numbers of the concern officers to manage any crisis of drinking water availability in Raigarh District. In order to provide proper treatment for removal of any geogenic contaminants PHED Raigarh has also provided 05 Electrolytic DE fluoridation (EDF) plants in 03 villages (Pata, Mudagaon, Saraitola) of Tamnar Block. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. In addition to above PHED, Raigarh has also

proposed drinking water supply scheme (Rs. 1270.41 Lakh project cost) for 10 mining effected villages of Tamnar Block. The details submitted by PHED, Raigarh was verified in Kondkel Village and found insufficient with respect to population of the village. The representative of PHED present during visit of the committee has informed that PHED has established 04 hand pumps, 04 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tap water supply from mine in village and ensure quality of water in coordination with PHED Raigarh. M/s Hindalco Coal Mine shall also submit report on quantity of mine water generation from UG mines to make an assessment for water supply required from PHED.

4. Installation of CCTV system in mines of the area was reported complied by all mines whereas its proper operation and recording is to be ensured by SECL in its all mines located in Chhal and Gare Palma.
5. EE PWD was present before committee to appraise the status of PWD roads in the area. Committee has observed very bad road condition in Tamnar and Gharghoda area which seems to be one of the major factors for deterioration of ambient air quality. EE PWD Sh. Khamra has informed the committee about requirement of immediate construction of approximate 111 Km CC road (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. More over SECL has paid an amount of 42 Crore to Raigarh PWD for construction of 19 kms, 7m wide tar road from Gharghoda to Jampali in compliance of Hon'ble NGT order.

IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44 Km Railway line work from Kharsia – Gharghoda – Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. Rail line work from Karichhapar – Kurumkela – Dharamjaygarh will be completed by December 2020. IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44 Km Railway line work from Kharsia – Gharghoda – Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. Rail line work from Karichhapar – Kurumkela – Dharamjaygarh will be completed by December 2020. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 03 coal siding and

made 01 siding operational, 02 more siding will be made operational by December 2020. As informed by the representative of Indian Railway rest 02 sidings shall be completed by March 2021. As per data received from major mining company of the area i.e. SECL, it is reported that 35% coal transport increase has been observed in comparison to last financial year 2019-2020. (Annexure VII) It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2020.

6. In reference to instruction on point 2 (a) (ii) regarding carrying capacity study, CPCB has advised CECB to include the project cost in EC fund sponsored project and proposal for same has been prepared by CECB and submitted to CPCB for further essential action.
7. The committee has also discussed the issues in meeting with Collector, Raigarh to expedite the required development as directed by Hon'ble NGT in its order. The outcome of the meeting has been considered in the recommendations.

In view of the above field observations, the recommendations of oversight committee are as under.

RECOMMENDATIONS :

1. **In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the oversight committee about development made in health facilities.**
2. **Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget of Rs. 335 crore (@Rs 3.00 crore per km) for construction of CC road approximately 111 km length of 7m width (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara about 35 Km) and ensure its execution before March 2021. In this context time bound action plan with bank guarantee of Rs. 35 Crore may be obtained from PWD, Chhattisgarh to ensure timely execution of the work.**
3. **Directions from Hon'ble NGT may also be issued to CMD, SECL, Bilaspur to expedite allotment of abandoned coal mines in consultation with CECB and complete it before 31st December 2020."**
5. From the above, it does appear that action so far taken is not adequate and further steps need to be taken in the light of the recommendations made. **The Principal Secretary, Health and the PWD Department, Chhattisgarh Government and the South Eastern Coalfields Limited (SECL) may act as per recommendations of the Committee. Coal transportation by rail be increased for abatement of air and dust pollution.**

N. J. Singh

6. Further, the applicant has given suggestions by way of written submission filed on 18.11.2020, inter-alia to the effect that contaminated sites be seen, **fly ash dumping in low-lying areas be ensured and such dumping should not be in unscientific manner. The legacy fly ash dumps be remediated. Air and land pollution due to fire in the coal mines be remedied. Coal transportation by trucks must be done on scientific basis and transportation by conveyor belts be preferred. Road maintenance be improved. Continuous Ambient Air Quality Monitoring Station (CAAQMS) be installed. Steps be taken for recharge of the ground water. Water supply to the concerned villages be provided by pipes.** The submission of the applicant are:

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5. That at the outset it is stated that the Committee did not meet with Applicants during their recent visit which was important as the Applicants would have shown the contaminated sites to the committee which are grossly missing in the present Report dated 17th November, 2020. The Committee has only seen the sites which the CECB has shown to it. It is submitted that the Committee should plan an immediate visit after informing the Applicants so that the Applicants can help the Committee to identify the contaminated sites and resolve the environmentally problematic issues as mentioned in the Order dated 27.02.2020 of this Hon'ble Tribunal.

6. That Overall the report does not provide any evidence (in the form of photos, lists of sites visits, descriptions, who did they meet etc) to back up its conclusions. For example in places where the committee has come up with conclusion that fly ash dumping in low lying areas have been restricted. It is stated that no proof has been given for the same. There are no photographs that have been attached or list provided of which sites they have visited and what information they have noted by the Committee. Also the local community members have provided a list of sites and photo documentation of how new fly ash dumping sites have been created in various parts of the region in violation of the Hon'ble NGT's Order/s however till date no action has been taken in any of these cases. The Applicants are annexing the recent photographs showing that the fly ash dumping is still taking place and nothing has been done with respect to removal of legacy fly ash dumps. The non-clean up of legacy fly ash dumps would lead to leachate when it comes in contact with water and would further lead to water and soil pollution.

Photographs alongwith GPS location and date are annexed herewith showing the Fly ash dumps which are annexed herewith as ANNEXURE-B (Collectively).

7. That it is also important to point out that the Coal mines of Gare IV/2 and Gare IV/3 is also witnessing air and land pollution due to fire in Coal mines of Gare IV 12 and

Gare IV/3. Had the Committee contacted the local community members they would have shown the sites which are witnessing fire in Coal Mines. Recent Photographs showing the fire in Coal mines of Gare IV/2 and Gare IV/3 are annexed herewith as ANN EXURE-C (Collectively).

8. *That on the issue of coal transportation by trucks, the committee has given a vague response of "seems to be complied" which does not make any sense, either the condition is complied or not to be complied. However the committee has once again not provided any details of the transportation of coal via conveyor belts such as trip sheets or how much quantum of coal has been transported by a conveyor belt to provide proof that the condition is being complied with. Mere vague statement of the committee in this regard cannot be accepted as proof.*
9. *That the direction about CAAQMS has NOT BEEN COMPLIED WITH. What is even more shocking that, the committee which has been appointed to oversee the implementation of the direction is justifying the non-compliance by advancing the industry's faulty logic in this regard, It is stated that EC and CTO condition is to provide regular monitoring data which is not the same as a24X7 and 365 day monitoring through OAAQMS.*
10. *That the committee itself observes bad road in the region hence it is clear that road maintenance direction has NOT been complied with.*
11. *That Directions regarding the mitigation measures of health issues in the region HAVE NOT been complied with. The Principal Secretary-Health, GoW. of Chhattisgarh has not been implementing any health related measures and local community health is in a very precarious situation which fact is observed in a recent Health Assessment RepoG 2019-2020 titled "HEALTH ASSESSMENT OF VILLAGERS OF TAMNAR BLOCK, DISTRICT RAIGARH (C.G.)" submitted to Indian Council of Medical Research, New Delhi, Year 2019-2020. Copy of relevant pages of this study is annexed herewith as ANNEXURE-D.*
12. *That on the issue of green belt development, the committee has pushed the responsibility on MoEF&CC. It is not clear in describing the actual status on the ground. there is no actual evidence provided by the committee to support their "compliance in progress" remark. The committee's vague remark without any submission of documents of the mine wise status of greenbelt development is nothing but mere bald assertions without any proof.*

13. *That regarding the water testing laboratories at Gharghoda and Raigarh for testing of drinking water quality there is no evidence on record that the same are in fit working condition. Similarly, on the issue of water testing, the Applicants state that in Saraitola area the water contains high fluoride content and there is no evidence on record to show that Electrolytic DE fluoridation(EDF) Plants in 3 villages (Pata, Mudgaon, Saraitola are in fit working condition). The Committee has failed to provide any testing results from the area as to what was found in the drinking water and whether the same was in usable condition by the local villagers. There is no evidence or proof filed by committee regarding the sites where the drinking water is potable and where the same is not potable and need further treatment for the villagers to be used. There should be a timeline provided by the Committee to test the water quality in the Tamnar and Gharghoda blocks and a study regarding the sites of potable water needs to be done in coordination with PHED and the local villagers.*
14. *That the Committee has agreed that there is a problem of frequent lowering of ground water table due to mining activity at page 7 of the Report.*
15. *Inspite of acknowledging the problem of frequent lowering of ground water table due to mining there are no plans or action taken proposed for replenishing the fast depleting water table or curbing the future mining activity.*
16. *It also states that M/s Hindalco has been told to provide Tap water supply from the mine in the village and ensure quality of water in co-ordination with PHED Raigarh. It is stated that the same should be done for Neelupara and adjoining area where there are very few drinking water facilities. The Report is silent on new sites where drinking water facility has been provided.*
17. *That in the long term compliance section the details provided in Annexure VI for the carrying capacity study is grossly insufficient. The proposal of CECB is to just conduct a source apportionment study. A source apportionment study cannot be considered as a carrying capacity study. Source Apportionment (SA) is the practice of deriving information about pollution sources and the amount they contribute to ambient air pollution levels. The concept of carrying capacity describes the relationship between resources, environment and human activities to ensure sustainability. Carrying capacity is also defined as "the growth limits an area can accommodate without violating environmental capacity goals". The carrying capacity study will assess the maximum number of individuals/ industrial activities that an area's resources can sustain indefinitely without significantly depleting or degrading those resources or*

causing environmental or public health depletion. It is reiterated that a proper detailed proposal on carrying capacity study has to be done and shared with the community before progressing with the compliance.”

The above suggestions may be duly considered by the concerned authorities and the Committee which may be coordinated by the CPCB. We also direct the Collector, Raigarh will stand inducted as Member of the Committee. The applicant has also filed IA No. 382/2020 for a direction that expansion of the project be allowed only after carrying capacity assessment is done. This aspect may be gone into by the Expert Appraisal Committee (EAC).

7. A further status report may be furnished after four months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.”

4. In pursuance of above, a further report has been filed by CPCB on 16.04.2021. The Committee held meetings during 15th-17th March, 2021 and also conducted field visit. The status of compliance as on 15.03.2021 has been given in a tabular form. Field observations and recommendations have also been mentioned. Relevant extracts from the report are reproduced below:-

“In compliance of Hon’ble NGT order dated 20.11.2020 (Annexure-I), the 3rd virtual meeting of over sight committee was conducted on 27.11.2020. Copy of the minutes of this meeting is placed at Annexure-II.

As decided in the meeting, 3 rd field visit of Gharghoda and Tamnar area in Raigarh was conducted during 15-17th March 2021 to address the suggestions given by the applicant by way of written submission filed on 18.11.2020 and to assess progress on the ground in terms of compliance with short term recommendations. The Oversight committee has conducted meeting with applicant on 15.03.2021 in the meeting hall of Collector Raigarh. Sh. Bhim Singh, IAS, Collector Raigarh was also with other members of the Oversight Committee. As decided in the meeting on 27.1.2020 Sh. Shivpal Bhagat, (Applicant) was informed about schedule of the meeting through e-mail on 12.03.2021 and through phone on 15.03.2021. Copy of the mail is placed at Annexure-III. Three applicants out of six have attended the meeting viz Sh. Sriram Gupta S/O Mansha Ram Gupta (Applicant 4), Ms. Rinchin D/O Bina (Applicant 5) and Janki Sidar W/o Bharat Sidar (Applicant 6).

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All three applicants were then invited to join the Oversight Committee in its field visit on 15th and 16th March 2021. **Contaminated sites and fly ash disposal sites shown by the applicant were listed and course of action decided / recommended by the committee has also been recorded in field visit report.** Copy of the field visit report is placed at Annexure-IV.

The compliance status of short term and long term measures are presented as under-

S. No	ORDERS OF THE HON'BLE NGT FROM RECOMMENDATIONS IN THE REPORT, NOVEMBER 2019	COMPLIANCE REVIEW STATUS AS ON 15.03.2021
01	Short term measures	
	<p>Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling. (Action by respective Coal mine companies).</p>	<p>Two SECL mines (IV/2,3) and one JPL mine (IV/1) are accepting fly ash. Letters were issued to SECL Chaal OC, Monnet Ispat, HINDALCO Limited and M/s Ambuja Cement Ltd. M/s HINDALCO mines informed about no OB dump because of continuous back filling of mined area with OB as per Approved mining plan. M/s Monnet Ispat Mines has been taken over by SECL. No response received from M/s Ambuja Cement Limited. MoEF &CC vide its notification dated 28th August 2019 has modified the conditions stipulated in the EC of TPP and coal mines in line with the fly ash notification and subsequent amendment. It has been mentioned in point no 7 that ministry has stipulated the conditions which prohibited the use of fly ash in abandoned mines/low lying area/ soil conditioner in agriculture following the guide lines prepared by CPCB.</p> <p>Accordingly CECB shall amend the consent conditions of all TPP and Coal Mine.</p> <p>More over CEA vide its letter dated 14.02.2020 has informed about</p>

		<p>declaration of abandoned mines on recommendation of task force. The list includes 24 abandoned OC mines of Chhattisgarh to be used for filling of fly ash generated from TPP. The committee has suggested to Chairman, Chhattisgarh Environment Conservation Board for constitution of State Level Committee to decide the mode and quantity of fly ash to be disposed in working/ abandoned mines/quarries in the State. The same committee may also look after the fly ash disposal issues in Raigarh also on priority. Copy of the letter issued to Chairman, CECB, Raipur, is placed at Annexure-V. Action from CECB is awaited.</p>
b)	<p>Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.</p>	<p>District Collector of Raigarh has issued letter to concerned department for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly Ash. During visit of the committee, disposal of fly ash in low lying area was observed but seems to be disposed before issue of the order by the collector.</p> <p>As per preconditions of SOP Power plant/ land owner/agency shall obtain statutory permission from regulatory authorities such as SPCB as per requirement.</p> <p>CECB is to submit list of the locations of low lying areas being used or earlier used for unscientific disposal of fly ash for which permission has been granted by local administration after getting NOC from CECB.</p>
c)	<p>Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and</p>	<p>It was informed by Regional officer CECB, Raigarh that Jindal Power limited (JPL) has received 44,25,66</p>

	<i>no such coal transport should be allowed via trucks. (Action by SECL).</i>	<i>MT coal in 2019-20 and 40,24,274 MT coal in 2020-21 through conveyor belt.</i>
d)	<i>Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pre – treatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically, the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms.</i>	<i>PHED Raigarh has informed that water testing laboratories are functional at Gharghoda and Raigarh for testing of drinking water quality of the area. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tap water in village and ensure quality of water in coordination with PHED Raigarh. M/s Hindalco has submitted detail of mine quantity generation and its mode of treatment to committee. PHED is to submit the quantity of water required for kondkhel village. The committee has also suggested to obtain details from Central Ground Water Authority about water recharge points provided by the coal mines at the time of obtaining NOC.</i>
e)	<i>Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECEB/CPCB server, and also displayed on the mine gates for public information. (Action by respective coal mine companies).</i>	<i>As per field report by CECEB, RO, Raigarh it seems that CCTV has been installed by M/s HINDALCO Industries, SECL Gare Palma IV/2 & 3, SECL Chhal. SECL Gare Palma IV/1. At the time of visit M/s Monnet Ispat Mines were not found operational.</i> <i>In case of installation of CAAQMS committee has instructed Member Secretary, Chhattisgarh Environment Conservation Board to issue directions to all coal mines for</i>

		installation of CAAQMS and its connectivity with CPCB/CECB server. Copy of the letter is placed at Annexure-VI. Status of the same is awaited from MS, CECB, Raipur
f)	Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles. (Action by Public Works Department and respective mining companies). Indian Railways to be directed to submit a time-bound action plan for commissioning of the railway line in Tamnar and Gharghoda blocks to ensure all coal transportation by rail.	<p>EE PWD, Raigarh Sh R K Kharma has informed the committee about requirement of immediate construction of approximate 111 Km CC road (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years.</p> <p>Letter issued to PS, PWD, S-1/03, Mahanadi Bhawan, Raipur by this office vide number RDB/NGTOA104/2018/553 dated 07.09.2020 and 6.01.2021 to sanction Rs. 335 crore for construction of 111 km CC road.</p> <p>No response has been received from PS, PWD, Chhattisgarh Government.</p> <p>IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44 Km Railway line work from KharsiaGharghoda- Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda- bhalumuda-Gare Palma will be completed by June 2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation.</p> <p>Compliance in Progress.</p>
g)	Proper and free health care facilities with multispecialty treatment system may be provided in all coal mineadjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu	Mitigation measure for health issues is to be overseen by the Principal Secretary, health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the

	<i>Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies).</i>	<i>requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. Collector Raigarh has assured to arrange the required medical facility in the area by way arranging health screening camps in all villages within next few months.</i>
<i>h)</i>	<i>Strict vigilance by MOEF&CC for green belt development compliance as per EC conditions</i>	<i>MoEF&CC has issued letters to all coal mines for submitting updated status of green belt developed. Responses received are being compiled and submitted in next meeting of the committee.</i>
<i>i)</i>	<i>We also recommend that no further conversion of UG mines to Open Cast mines be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major noncompliance in pollution control and social cost(rehabilitation).</i>	<i>Letter was issued in September 2020 to MoEF&CC (IA-Coal) for implementation of restriction on conversion of UG coal mines to OC coal mines in Tamnar and Garghoda area of District Raigarh. MoEF&CC representative in the committee has now sent follow-up e-mails to IA division reiterating these recommendations.</i>
02 LONG TERM MEASURES		
<i>a)</i>	<i>Commissioning a detailed and comprehensive environmental load carrying capacity study (as mentioned in NGT order), to be carried out by a reputed environmental research institute over a 24 month period.</i>	<i>CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh. The Technical and Commercial proposal is to be provided by NEERI, Nagpur within 15 days. (Annexure-VII)</i>
	<i>Mode of commissioning of this study may please be decided by the Hon'ble NGT and necessary directions may please be issued accordingly</i>	
<i>b)</i>	<i>To reduce the pollution and other impacts caused by road transport of coal and other minerals directions may be issued that coal transport by</i>	<i>As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY-2019-20 after construction of new</i>

	road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail of closed conveyor belt.	<p>rail line between Kharsia-Gharghoda-Korichhapar. Coal dispatch from Korichhapar railway siding commenced in the FY2019-20.</p> <p>SECL and IRCON shall submit detail about total transportation of coal through Rail in FY-2020-21.</p>
c)	Condition of green belt development may be incorporated at TOR stage of EC application to ensure that green belt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by MoEF&CC. Further while granting TOR, EAC should specify the location of the green belt to provide buffer between coal mine and human settlements and specify sufficient width of the green belt for the same.	<p>Copy of Hon'ble NGT order dated 27.02.2020 has been sent to IA-Coal on 18.09.2020 for further necessary action by MoEF&CC.</p> <p>Continued non-compliance of green belt conditions from EAC of coal is observed. Strict monitoring and follow up action by MoEFF&CC is required.</p>
d)	Ministry of coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and backfilling as per fly ash notification of 2009.	<p>Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh had been submitted to be used for filling of fly ash generated from TPP including 3 in Gare Palma Block. Of these 3 only 01 is actually feasible.</p> <p>No progress reported from CECB for constitution of the State Level Committee as proposed.</p> <p>No progress reported by CMD, SECL, Bilaspur in spite of several communications from CECB, CPCB and Collector, Raigarh.</p>

FIELD OBSERVATIONS

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1. Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh has been submitted to be used for filling of fly ash generated from TPP. The committee has written to Chairman, CECB, Raipur for constitution of State Level Committee for management of fly ash disposal in the state with implementation of SOP notified by CPCB. The co-operation of SECL is not satisfactory as many applications of TPP of Tamnar & Gharghoda area are lying unattended by SECL.
2. District collector, Raigarh has issued letter to concern departments for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly ash. During visit unscientific disposal of fly ash were observed at 1) Outside TRN Power ash dyke (By TRN Energy Private Limited) , 2) In Tenda village (By TRN Energy Private Limited) , 3) Outside the Mahaveer Energy (By Mahavir Energy & Coal beneficiation Limited). Onsite observations reveal it as legacy fly ash dump.
3. PHED, Raigarh has proposed drinking water supply scheme (Rs. 1270.41 Lakh project cost) for 10 mining effected villages of Tamnar Block. The details submitted by PHED, Raigarh was verified in Kondkel Village and found insufficient with respect to population of the village. The representative of PHED present during visit of the committee has informed that PHED has established 04 hand pumps, 04 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. Hence it has been decided by the committee to obtain data of ground water recharge system in Gharghoda and Tamnar area, from central ground water authority, Raipur along with data of annual ground water level in the area.
4. Installation of CCTV system in mines of the area was reported complied by all mines whereas its proper operation and recording is to be ensured by SECL in its all mines located in Chhal and Gare Palma. RO CECB Raigarh was requested to physically verify the status of transport of coal in properly covered manner.
5. EE PWD, Raigarh has informed the committee about immediate construction of approximate 111 Km CC road (Raigarh to Dharmjaigarh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. Hon'ble NGT in its order dated 20.11.2020 (point 5) has instructed PS, PWD to sanction the required fund and ensure execution before March 2021. During field visit execution of the work was not observed, hence the issue was further clarified with EE, PWD, Raigarh who informed as under-

- Main high way connecting Raigarh to Dharamjaygarh has now been included in National Highway Scheme
- Stretch from Chhal mines to Gharghoda has been approved for two lane
- Stretch from Punjipatra to Milupara via Tamnar not yet approved.

In view of the above committee has instructed to EE, PWD, Raigarh to identify badly damaged patches in this stretch and prepare a budget and get same approved so as to complete the work within three months. Stretch from Punjipatra to Milupara via Tamnar has also to be taken on highest priority because of the heavy traffic load on this route.

IRCON International Limited, has informed that work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 04 coal siding and made 01 siding operational. As per data received from major mining company of the area i.e. SECL, it is reported that 35% coal transport increase has been observed in comparison to last financial year 2019- 2020. (Annexure-VII) It is assumed that coal transport by rail may increase by 50% in addition to earlier transport after completion of the project

SECL and IRCON shall submit detail about total transportation of coal through Rail in FY-2020-21.

6. CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh. The Technical and Commercial proposal is to be provided by NEERI, Nagpur within 15 days. (Annexure-VII)
7. The committee has also discussed the issues in meeting with Collector, Raigarh to expedite the required development as directed by Hon'ble NGT in its order. The outcome of the meeting has been considered in the recommendations.
8. In order to make information of the Oversight Committee's work public domain, Collector Raigarh agreed to host a webpage on the Raigarh District website and directed the District information officer (Raigarh) to coordinate with the committee regarding the same.

In view of the above field observations, the recommendations of Oversight Committee are as under

RECOMMENDATIONS –

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1. *Chhattisgarh Environment Conservation Board shall prepare list of areas where unscientific disposal of fly ash has occurred with specific remark of status about permission granted.*
2. *Chhattisgarh Environment Conservation Board shall also generate data about total quantity of coal mined in Raigarh, total quantity of coal being used by the industries in Raigarh and quantity of locally mined coal available for TPPs and other industries of Raigarh.*
3. *In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the Oversight Committee about development made in health facilities.*
4. *Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget for 111 km road from Raigarh to Dharamjaygarh and Punjipatra to Milupara via Tamnar and ensure its execution within three months. In this context time bound action plan shall be submitted to ensure timely execution of the work*
5. *Directions from Hon'ble NGT may also be issued to Chhattisgarh Environment Conservation Board, Raipur for constitution of State Level Committee to look in to Scientific Utilization of fly ash in the Chhattisgarh State.*
6. *Directions from Hon'ble NGT may also be issued to CMD, SECL, Bilaspur to expedite disposal of fly ash in abandoned coal mines declared by Central Electricity Authority, Ministry of Power, Government of India vide letter no. 1/8/27/Task Force/ 2013-2019/TCD/230-338 dated 14.02.2020 in consultation with CECB and complete within three months."*

5. From the report dated 17.03.2021 annexed to the main report as Annexure-IV, violations have been found on the part of JPL, JSPL, M/s HINDALCO Industries Limited, Mahaveer Bio-Energy Premises and CSPGCL. The observations are quoted below:-

“FIELD OBSERVATIONS

1. **Unscientific dumping of fly ash-** *The committee has observed unscientific dumping of fly ash at several places, out of these few are temporary/ intermittent and few old dumping of legacy in nature.*
 - **Within GP IV/1, outside mine void:** *Only fly ash dumping as part of backfilling of mine void along with overburden is*

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permitted. No dumping is permitted in open areas; such dumping is leading to ash flying away into human habitation and ecosystems.

Action: As this constitutes violation of EC conditions, CECB to direct JSPL to clean up the unauthorised dump within 7 days and dispose the fly ash in the mine void through the backfilling process. The process of covering fly ash with overburden/ sweet soil appears to be very slow. JSPL shall ensure that fly ash is covered within 07 days to extent possible and also to ensure daily watering or covering up the flu ash during backfilling process.

- **Within GP IV/2-3 outside mine void:** Only fly ash dumping as part of mine void covered with overburden is permitted. No dumping without cover by overburden is permitted in open area as such dumping may lead to ash flying away into human habitation and ecosystem. (Pics5-6)

Action: As this constitutes violation of EC conditions, CECB to direct JSPL to clean up the unauthorised dump within 7 days and dispose the fly ash in the mine void through the backfilling process.

- **Leakage of fly ash slurry from JPL ash dyke:** The ash dyke IIA and IIB of JSPL was observed full and representative of the industry has informed that application for permission to raise the ash dyke height is submitted in MoEF&CC. At the time of visit leakage in the exiting ash dyke was observed and ash laden water was found up to toe drain. Hence possibility of ash dyke breach in future cannot be ruled out. (Pics-07) Action: In compliance of direction from Oversight Committee CECB has inspected the site and directions to the industry is being issued under section 33 of water act. Furthermore, JPL to conduct study through a research organisation of national repute to determine the stability of the exiting ash dyke and take measures required to strengthen as needed. No permission for raising of ash dyke shall be given till safety of the dyke is assured.
- **Outside TRN Power Ash dyke:** TRN power has created an ash dump outside its ash dyke in the village of Nawapara Tenda(Pic- 08). The top of dump is at least 10 feet above the GL. This is not as per definition of dumping in low lying area. Moreover, fly ash utilisation report April 2020 – Jan 2021 provided by TRN Power shows that they have continued to dump fly ash in low lying areas during May, June and July 2020. There are physical evidences for breaching of mud wall leading to fly ash flowing in to adjoined fields (Pic-9). More over the situation to ash flying into neighbouring habitants and ecosystem could not be ruled out. The dumping of fly ash in Tenda Village is seems to be a legacy dump (Pre-February 2020). This unscientific dumping is

visibly eroding in the rain and may flow in to nearby fields and water streams. (Pic-10)

Action: CECB to instruct TRN power to desist from any further dumping, to strengthen the mud dykes, to regularly watering the dump to prevent fly ash dispersal by wind, to prevent any erosion by covering the dump with soil. Actions for the long term remediation of this legacy dump will be determined once mine voids are made available for fly ash disposal.

- **Outside Mahaveer Bio Energy Premises:** Mahaveer Bio energy has created an ash dump behind its premises. (Pics- 11) The top of the dump is at least 10 feet above the GL and does not conform to the SOP for dumping in low lying area. More over there is not even a proper retaining wall around the dump creating a public hazard.

Action: CECB shall issue show cause notice for improper disposal of fly ash and instruct for removal of the fly ash within 07 days

- **Fire in coal mine/coal dump:** The committee observed smoke in gare Palma IV/2-3 (SECL). (Pic-12) SECL assured the committee that they have followed instructions provided by CIMPHER but measure advised as covering with clay have not worked. Fires/ smoke is constant hazard in coal mining. Nevertheless, fires close to human habitation need to be immediately put on to prevent pollution and health hazard.

Action: CECB to direct SECL to arrest all fire within 500 m of kausampalli and Sarasmal village within 7 days and approach DGMS immediately for obtaining better solution to deal with issues

- **Discharge of untreated waste water-** The committee has observed discharge of untreated water from mine of M/s HINDALCO Industries Limited at Gare Palma IV/ 4 in to a drain leading to agriculture fields (Pic-13). The mine owner has also not demarcated mining lease area that OB dump activity could be assessed.

Action: As this constitutes a violation of EC conditions, CECB shall direct M/s Hindalco to immediately stop the discharge of effluents, and to install necessary wastewater treatment facilities and have them inspected by CECB within 1 month, show that it meets discharge quality standards set in the EC, and seek approval of neighboring village Gram Sabha before releasing any further (treated) wastewater out of its mine lease area

The committee also received public representation in field to the effect that the captive coal washery with in the JPL premises was releasing untreated effluents in to the Kelo River that adjoins it. The committee could not visit the site to examine the situation.

Action: CECB has visited the site and reported non-operational status of coal washery, however water samples from River Kelo has been collected and final report will be submitted after completion of sample analysis.

- 2. Green belt and safe distance from public road/settlement-** The committee has found green belt issue and indiscriminate storage of OB dump in CSPGCL (Chhattisgarh State Power Generation Company limited) mine at Gare Palma sector 3. It was observed that dumping of OB was done on both sides of public road without safe distance.

Action: Committee has instructed CECB to inspect the GP III mine and verify the actual location of OB dump as per mining plan. In case of any deviation found strict action shall be initiated in consultation with state mining department as well as Director General of Safety and Mines (DGMS). Regarding Gare Palma IV/5 MoEF&CC to verify and issue appropriate direction.

- 3. Making abandoned mines available for disposal of fly ash-** Update: Ministry of power has identified 3 mines for fly ash dumping in Tamnar-Gharghoda region. Chhaal mine is actually not available because it is being worked. Mand mine is an UG mine has already been decommissioned. It is not easy to reuse it for fly ash dumping. DGMS will be requested to suggest ways in which it can be made available for fly ash dumping. OCP mine at Domnara is found suitable for disposal fly ash available for which SECL, Raigarh has moved the letter to its HO at Bilaspur office seeking permission. In case of permission granted for Domnara mine preference shall be given to TRN Energy Private Limited and some other power producers that generate fly ash and have limited area for fly ash disposal.

Action: Collector Raigarh shall pursue the matter with CMD, SECL, Bilaspur for an early outcome.

- 4. Public health facilities and disease screening-** The committee has also discussed about requirement of health infrastructure and status of available facilities in Gharghoda and Tamnar area. Collector Raigarh has informed the committee that there are adequate facilities available at Tamnar CHC and at the Fortis-JPL multispeciality hospital at Tamnar. Collector Raigarh has also assured to organise 'health camps' within the next 3 months in all villages surrounding the mines areas in T & G blocks, and then ensure regular screening after that on a yearly basis.

Action: CECB RO Raigarh with DC, Raigarh to reconfirm that JPL hospital is open to all villagers for free of cost treatment.

- 5. Improve Road quality to reduce spillage and air pollution-** Gharghoda and Tamnar area of Raigarh is extremely rich in coal mineral and extensively mined by SECL and other private companies. It was observed that very less percent of coal produced in the area is available for exiting industries of Raigarh. Most of the coal mined is being transported to nearby areas in Chhattisgarh and other states. Hence road condition of Raigarh plays an important role in deterioration of ambient air quality. In order to ensure better ambient air quality an statistical balance is to be developed between road transport and rail transport. It was found satisfactory that development of rail network with five coal siding in the area are at the stage of completion. Hence it is required to decide a time line for transportation of coal by rail only especially being dispatched to other states. Road transport of coal shall be limited for those power plants operational in Raigarh.

EE, PWD, Raigarh has informed the committee that main highway connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme. Stretch from Chhal mines to Gharghoda has been approved for two-lane and its strengthening. Stretch from Punjipathra to Milupara via Tamnar (25 km) and Stretch from Milupara to Lailung not yet approved.

Action: Since the actual process of constructing the NH will take at least two years, PWD is instructed to identify badly damaged patches in this stretch and prepare a budget and get the same approved and acted upon immediately (within 3 months). As far as constructions of other stretches are concerned PWD shall take highest priority because these are the stretches with heaviest traffic density.

- 6. Inadequate quality of drinking water supply to Kondkhel village-** This could not be verified in this visit, but Hindalco was already instructed to stop providing water from Bendra nala, and to provide water from coal mine after proper filtration and treatment. Hindalco has yet to comply.

Action: Direction from collector Raigarh may be issued to M/s HINDALCO and PHED, Raigarh for compliance within three months.”

6. Before discussing the report and issuing further directions, we may dispose of IAs which have been filed. I.A. No. 97/2021 has been filed on behalf of M/s Jindal Steel and Power Limited (JSPL) seeking direction for short term measures for transportation of coal. The Expert Committee having already gone into the matter, we do not find any scope for piecemeal direction in isolation when the matter is being dealt with holistically based

on recommendations of a credible committee, which are not shown in any manner to be erroneous. I.A. No. 97/2021 is disposed of accordingly. I.A. No. 25/2021 was filed by the applicant for modification of the constitution of the Committee. We do not find any merit in the said application as report has already been submitted which is being considered. The IA stands disposed of. I.A. No. 382/2021 is for direction to the MoEF&CC not to permit expansion of Hindalco Industrial Limited project for underground mine being converted to Opencast mine. We are of the view that instead of granting the injunction sought, the concerned authorities may look into desirability or otherwise of such expansion, in the first instance and if the applicant is aggrieved, he will be at liberty to take remedies against the permission if so taken. I.A. No. 382/2021 stands disposed of accordingly.

7. We may also note the response of the applicants to the report of the Committee. It is submitted that dumping of fly ash in low lying areas needs to be avoided in view of earlier order of this Tribunal dated 27.02.2020, based on the recommendations of the Committee as required monitoring is not viable. Further, any such unscientific dumping which may have already taken place needs to be remedied. It is further submitted that no timeline has been provided in the recommendations of the Committee for remedying long pending and continuing problems. Actions suggested on behalf of the applicants under different heads are reproduced below:-

“A. *Dumping in low lying areas:*

- (i) *The Applicants reiterate that there should be No dumping of fly ash in low lying area as has been accepted by this Hon’ble Tribunal vide it’s Order dated 27.02.2020 and the Order dated 20.12.2020 be clarified in this regard and directions be issued to the Oversight Committee in this regard.*
- (ii) *CECB be directed to amend the consent conditions of all TPP and Coal Mine as per MoEF&CC’s notification dated 28th*



August 2019 as mentioned in the Report of the Oversight Committee

- (iii) *The Hon'ble NGT should direct for a clean up of the Fly Ash, since the monsoon rains will start soon and again the legacy ash dump sites will pollute the river and agricultural land."*

B Repairing and Maintenance of roads inside and outside the mine area:

Committee had also visited the new operations at Gare Pelma Sector 3 which is under the Chhattisgarh State Power Generation limited and there too the trucks are using the said road, which the Hon'ble NGT had directed to be made form Raigarh to Milupara, but no mention of such violations have been made in the Report. It is suggested that there should be proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles"

C. Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case.

D. MoEF&CC be directed to forthwith submit the data on Green Belt development before the Hon'ble Tribunal with respect to District Raigarh.

E. Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages.

F. Installation of adequate number of CCTV and CAAQM stations in coal mining area.

G. Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks.

H. Comments on the field observations:

- a. Impose Environmental damages on the units found in violation of EC conditions as several EC violations have been recorded by the committee but no action has been proposed / recommended by the Committee against the violators*
- b. Address the issue of fires in the overburden dumps in all operations, which has been left unaddressed.*
- c. Committee be directed to present plan for water recharge*
- d. Effluents and coal discharge was noticed in the river and nallas. No measure and punitive action has been suggested for that. This issue may kindly be addressed.*
- e. The field visit reports of the Oversight Committee should be cross verified with the actual action taken and compliance of the recommendations.*
- f. The field visits should be more regular and the report of the Oversight Committee should be placed in Public Domain so that the work done so far and the status of action taken is made public."*

8. We have given due considerations to the report of the Committee as well as suggestions made on behalf of the applicants. The recommendations of the Committee need to be accepted. The State Board should prepare list of areas where unscientific disposal of fly ash has taken place and generate data about the quantity of the coal mined, used in the industries and available for TPPs. Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipatra to Milupara, disposal of fly ash in abandoned coal mines and constitution of State Level Committee to look into scientific utilization of the fly ash. Taking such steps is undoubtedly necessary for protection of the environment. The suggestions of the applicants reproduced above also need to be considered by the Oversight Committee.

9. The Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law. The Committee may continue to oversee remedial measures in terms of directions of this Tribunal. The Committee may undertake field visit and also interact with all the stakeholders. The Committee will be at liberty to take assistance from any other Expert/Institution.

10. We regret to note failure of the concerned departments of the State of Chattisgarh to respond to the Committee and to perform their Constitutional obligation to protect environment and public health. Pending taking coercive measures for such failures in due course, we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned departments, including PWD and Health on the



subject of construction of road and providing health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries.

11. Having regard to the seriousness of the issues involved and their impact on the environment and public health, we direct that the Oversight Committee will now be headed by Justice V.K. Shrivastava, former Judge of Chhattisgarh High Court, available at Bilaspur. He will be entitled to honorarium at the rate of Rs. 2 lakhs per month, apart from logistic support for the purpose of work of the Committee. His tenure will be for six months from the date he joins the first meeting of the Committee, which may be done within one month from today. The amount will be payable by the State PCB - Chhattisgarh Environment Conservation Board.

12. The report about the compliance status as on 30.11.2021 may be furnished to this Tribunal on or before 15.12.2021 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. A copy of the report may also be provided to the authorities who are required to implement the recommendations of the Committee to enable such authorities to file their response, if any, before the next date.

List for further consideration on 11.01.2022.

A copy of this order be forwarded to Chief Secretary, Chhattisgarh, MoEF&CC, NEERI, CPCB, State PCB, the Collector, Raigarh and Justice



V.K. Shrivastava, former Judge of Chhattisgarh High Court by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

June 24, 2021

Original Application No. 104/2018

(I.A. No. 382/2020, I.A. No. 25/2021 & I.A. No. 97/2021)

SN



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ANNEXURE - C

क्षेत्रीय कार्यालय
छ.ग. पर्यावरण संरक्षण मंडल
टी.व्ही.टॉवर रोड, रायगढ़ (छ.ग.)
Email ID: roraigarh.cecb@gmail.com

जावक क्र. 2569 /क्षे. का./प.सं.मं./2022
प्रति,

रायगढ़, दिनांक 03/03/22

मेसर्स जिंदल पॉवर लिमिटेड,
तमनार, जिला-रायगढ़ (छ.ग.)

मेसर्स टी.आर.एन. इनर्जी प्राइवेट लिमिटेड,
नवापारा टेण्डा, तहसील-घरघोड़ा
जिला-रायगढ़ (छ.ग.)

मेसर्स छत्तीसगढ़ स्टेट पॉवर जनरेशन कंपनी लिमि.
गारे पेलमा सेक्टर-02, कोल माईन,
जिला-रायगढ़ (छ.ग.)

मेसर्स हिण्डाल्को इण्डस्ट्रीज लिमिटेड,
गारे पेलमा IV/4, कोल माईन,
जिला-रायगढ़ (छ.ग.)

✓ मेसर्स जिंदल स्टील एण्ड पॉवर लिमिटेड,
डोंगामहुआ, जिला-रायगढ़ (छ.ग.)

विषय :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 के संबंध में।
संदर्भ :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 में पारित आदेश
दिनांक 15.02.2022

— 00 —

उपरोक्त विषयांतर्गत लेख है कि माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 में पारित आदेश दिनांक 15.02.2022 के द्वारा आपके इकाई/संस्थान पर पर्यावरणीय मानकों के उल्लंघन पर पर्यावरणीय क्षतिपूर्ति अधिरोपित की गई है। पारित आदेश की छायाप्रति संलग्न है। माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली द्वारा और अधिक पर्यावरणीय क्षतिपूर्ति अधिरोपित करने बाबत पारित आदेश में उल्लेख किया गया है। अधिरोपित की गई क्षतिपूर्ति के विरुद्ध क्यों ना और अधिक क्षतिपूर्ति राशि अधिरोपित ना की जाये तत्संबंध आप अपना पक्ष यदि रखना चाहे तो माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली के समक्ष रख सकते हैं। कृपया सूचनार्थ एवं अग्र कार्यवाही हेतु प्रेषित।

संलग्न :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली का आदेश दिनांक 15.02.2022

क्षेत्रीय अधिकारी,
छ.ग. पर्यावरण संरक्षण मंडल,
जिला-रायगढ़ (छ.ग.)

पृ. जावक क्र. /क्षे. का./प.सं.मं./2022

रायगढ़, दिनांक

प्रतिलिपि :-

सदस्य सचिव, छत्तीसगढ़ पर्यावरण संरक्षण मण्डल, पर्यावास भवन, नार्थ ब्लॉक,
सेक्टर-19, नवा रायपुर, अटल नगर, जिला-रायपुर (छ.ग.) की ओर सूचनार्थ प्रेषित।

क्षेत्रीय अधिकारी,
छ.ग. पर्यावरण संरक्षण मंडल,
जिला-रायगढ़ (छ.ग.)

ANNEXURE - C

REGIONAL OFFICE

CHHATTISGARH ENVIRONMENT COSERVATION
BOARD

T.V. TOWER ROAD, RAIGARH, CHHATTISGARH

Email ID : roaraigarh.cccb@gmail.com

Issue No.2569/Regional Office/Environment
Conservation Board/2022 Raigarh dated
03.03.2022

To

1. M/s Jindal Power Limited, Tamnagar, District Raigarh, Chhattisgarh.
2. M/s T.R.N. Energy Private Limited, Nawapara Tenda, Tehsil-Gharghera, District Raigarh, Chhattisgarh.
3. M/s Chhattisgarh State Power Generation Company Limited, Gare Pelma, Sector-2, Coal Mines, District Raigarh, Chhattisgarh.



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4. M/s Hindalco Industries Limited, Gare Pelma IV/4, Coal Mines, District Raigarh, Chhattisgarh.
5. M/s Jindal Steel & Power Limited, Dongamhua, District Raigarh, Chhattisgarh.

Subject: With regard to the Case No.104/2018 of the Hon'ble National Green Tribunal, New Delhi.

Reference : The Order dated 15.02.2022 passed in the Case No.104/2018 by the Hon'ble National Green Tribunal, New Delhi.

With regard to the above subject matter it is submitted that by the Order dated 15.02.2022 passed in the Case No.104/2018 by the Hon'ble National Green Tribunal, New Delhi on your Unit / Organization on the violation of the Environment Standard the Environment Compensation has been imposed. Photocopy of the passed order has been enclosed. By the Hon'ble National Green Tribunal, New Delhi for more imposing the Environment Compensation as has been described in the passed Order. Against the



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compensation which has been imposed why not more compensation amount may not be imposed. With regard to the same in case you want to keep your version then you may keep your version before the Hon'ble National Green Tribunal, New Delhi. This has been sent for your humbly information and action purposes.

Enclosure: The Order dated 15.02.2022 passed in the Case No.104/2018 by the Hon'ble National Green Tribunal, New Delhi.

Sd/- illegible

Regional Officer

Chhattisgarh EnvironmentConservation Board

District Raigarh, Chhattisgarh

Back Issue No. /Regional Area/Environment
Conservation Board/2022 Raigarh dated

Copy sent to :-

The Member Secretary, Chhattisgarh Environment
Conservation Board, Paryavaran Bhawan, North
Block, Sector-19, Nawa Raipur, Atal Nagar,



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District Raipur, Chhattisgarh for information purposes.

Sd/- illegible

Regional Officer

Chhattisgarh Environment Conservation Board

District Raigarh, Chhattisgarh

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क्षेत्रीय कार्यालय
छ.ग. पर्यावरण संरक्षण मंडल
टी.व्ही.टॉवर रोड, रायगढ़ (छ.ग.)

Email ID: roraigarh.cecb@gmail.com

जावक क्र. 2567 /क्षे. का./प.सं.मं./2022

रायगढ़, दिनांक 03/03/22

मेसर्स जिंदल पॉवर लिमिटेड,
तमनार, जिला-रायगढ़ (छ.ग.)

मेसर्स टी.आर.एन. इनर्जी प्राइवेट लिमिटेड,
नवापारा टेण्डा, तहसील-घरघोड़ा
जिला-रायगढ़ (छ.ग.)

मेसर्स छत्तीसगढ़ स्टेट पॉवर जनरेशन
कंपनी लिमिटेड,
गारे पेलमा सेक्टर-02, कोल माईन,
जिला-रायगढ़ (छ.ग.)

मेसर्स हिण्डालको इण्डस्ट्रीज लिमिटेड,
गारे पेलमा IV/4, कोल माईन,
जिला-रायगढ़ (छ.ग.)

✓ मेसर्स जिंदल स्टील एण्ड पॉवर लिमिटेड,
डोंगामहुआ, जिला-रायगढ़ (छ.ग.)

मेसर्स महावीर इनर्जी एण्ड कोल बेनिफिकेशन लि.,
ग्राम-भेंगारी, तहसील-घरघोड़ा,
जिला-रायगढ़ (छ.ग.)

मेसर्स अंबुजा सीमेंट लिमिटेड,
गारे पेलमा IV/8, कोल माईन,
ग्राम-करवाही, जिला-रायगढ़ (छ.ग.)

विषय :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन प्रकरण क्रमांक 104/2018 के संबंध में।
संदर्भ :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 में पारित आदेश दिनांक 15.02.2022

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उपरोक्त विषयांतर्गत लेख है कि माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन प्रकरण क्रमांक 104/2018 में पारित आदेश दिनांक 15.02.2022 के द्वारा आपके इकाई/संस्थान पर पर्यावरणीय मानकों के अतिक्रमण पर पर्यावरणीय क्षतिपूर्ति अधिरोपित की गई है। माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली द्वारा पारित आदेश में 02 माह के समयावधि में उक्त क्षतिपूर्ति राज्य प्रदूषण नियंत्रण बोर्ड/छत्तीसगढ़ पर्यावरण संरक्षण मण्डल को जमा किये जाने हेतु आदेशित किया गया है। उक्त आदेश के परिपेक्ष्य में पर्यावरणीय क्षतिपूर्ति मण्डल मुख्यालय, छत्तीसगढ़ पर्यावरण संरक्षण मण्डल, नवा रायपुर में MS (EC) C.G. Environment Conservation Board, Raipur के माध्यम से जमा करना सुनिश्चित करें।

क्षेत्रीय अधिकारी,

छ.ग. पर्यावरण संरक्षण मंडल,
जिला-रायगढ़ (छ.ग.)

जावक क्र. /क्षे. का./प.सं.मं./2022

रायगढ़, दिनांक

प्रतिलिपि :- सदस्य सचिव, छत्तीसगढ़ पर्यावरण संरक्षण मण्डल, पर्यावास भवन, नार्थ ब्लॉक, सेक्टर-19, नवा रायपुर, अटल नगर, जिला-रायपुर (छ.ग.) की ओर सूचनार्थ प्रेषित।

क्षेत्रीय अधिकारी,

छ.ग. पर्यावरण संरक्षण मंडल,
जिला-रायगढ़ (छ.ग.)

ANNEXURE - D

REGIONAL OFFICE

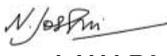
CHHATTISGARH ENVIRONMENT COSERVATION BOARD

T.V. TOWER ROAD, RAIGARH, CHHATTISGARH

Email ID : roaraigarh.cccb@gmail.com

Issue No.2567/Regional Office/Environment Conservation Board/2022 Raigarh dated 03.03.2022

To

1. M/s Jindal Power Limited, Tamnagar, District Raigarh, Chhattisgarh.
2. M/s T.R.N. Energy Private Limited, Nawapara Tenda, Tehsil-Gharghera, District Raigarh, Chhattisgarh.
3. M/s Chhattisgarh State Power Generation Company Limited, Gare Pelma, Sector-2, Coal Mines, District Raigarh, Chhattisgarh.
4. M/s Hindalco Industries Limited, Gare Pelma IV/4, Coal Mines, District Raigarh, Chhattisgarh.
5. √M/s Jindal Steel & Power Limited, Dongamhua, District Raigarh, Chhattisgarh.
6. M/s Mahaveer Energy & Coal Benification Limited, Village Bhengari, Tehsil-Gharghora, District Raigarh, Chhattisgarh.
7. M/s Ambuja Cement Limited, Gare Pelma, IV/8, Coal
 Village Karwahi, District Raigarh, Chhattisgarh.

True Copy

Subject: With regard to the Case No.104/2018 which pending consideration before the Hon'ble National Green Tribunal, New Delhi.

Reference : The Order dated 15.02.2022 passed in the Case No.104/2018 by the Hon'ble National Green Tribunal, New Delhi.

With regard to the above subject matter it is submitted that by the Order dated 15.02.2022 passed in the Case No.104/2018 by the Hon'ble National Green Tribunal, New Delhi on your Unit / Organization on the violation of the Environment Standard the Environment Compensation has been imposed. By the Hon'ble National Green Tribunal, New Delhi in the passed Order within 2 months period of time the above compensation for depositing the same before the State Pollution Control Board / Chhattisgarh Environment Conservation Board the order has been given. In the context of the above Order in the Environment Compensation Board Headquarter, Chhattisgarh Environment Board, New Raipur through the MS (EC) C.G. Environment Conservation Board, Raigarh please ensure to deposit the same.

Sd/- illegible

Regional Officer

Chhattisgarh Environment Conservation Board

District Raigarh, Chhattisgarh



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Back Issue No. /Regional Area/Environment
Conservation Board/2022 Raigarh dated

Copy sent to :-

The Member Secretary, Chhattisgarh Environment
Conservation Board, Paryavaran Bhawan, North
Block, Sector-19, Nawa Raipur, Atal Nagar, District
Raipur, Chhattisgarh for information purposes.

Sd/- illegible

Regional Officer

Chhattisgarh Environment Conservation Board

District Raigarh, Chhattisgarh

// TRUE TRANSLATION //



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**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI****I.A. NO. _____ OF 2022****IN****ORIGINAL APPLICATION NO: 104 OF 2018****IN THE MATTER OF:****SHIVPAL BHAGAT & ORS.****...APPLICANT(S)****VERSUS****UNION OF INDIA & ORS.****...RESPONDENT(S)**

OBJECTIONS ON BEHALF OF JINDAL STEEL & POWER LIMITED TO THE ENVIRONMENTAL COMPENSATION AMOUNTING TO RS. 11,70,000/- LEVIED ON IT VIDE THE OVERSIGHT COMMITTEE'S REPORT DATED 16.12.2021 AND AFFIRMED VIDE ORDER DATED 15.02.2022 BY THIS HON'BLE TRIBUNAL IN THE CAPTIONED MATTER

MOST RESPECTFULLY SHOWETH:-**BRIEF DESCRIPTION OF JINDAL STEEL & POWER LIMITED**

1. Jindal Steel & Power Limited [hereinafter "JSPL"] is an industrial power house with presence in steel, power, mining and infrastructure. It produces steel and power through backward and forward integration. At Raigarh, JSPL has a coal-based sponge iron making facility and the production capacity of the steel manufacturing facility is 3.6 MTPA. To feed this manufacturing facility with power, JSPL has installed a 540 MW Captive Power Plant situated at Dongamahua. The said Captive Power Plant is permitted to utilise the fly ash (generated in the process of power generation) for backfilling of Gare Palma IV/1 Open Cast Mine. The fly ash is mixed with the over-burden (OB) and is used for backfilling the mine void/mined out area.
2. As detailed hereinbelow, this Hon'ble Tribunal had constituted an Expert Committee and further an Oversight Committee to examine the aspect of environmental damage, remedial steps and assessment of compensation with respect to allegations of



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pollution caused by the thermal power plants, the coal mines and coal washeries located in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh. The proceedings undertaken by the Oversight Committee culminated into the Report dated 16.12.2021 [hereinafter “**Impugned Report**”] which assessed the compensation to be paid by the PPs and public officials and also provided long-term and short-term measures to be taken by PPs as remedial steps. Thereafter, this Hon’ble Tribunal passed order dated 15.02.2022 (“**Order**”) in *O.A. 104 of 2018* vide which it was directed that compensation assessed under the Impugned Report be deposited as interim compensation. It was further directed that the State Pollution Control Board put all PPs, PWD and Health Departments through the Chief Secretary, Chhattisgarh to notice of these proceedings with view to provide them opportunity to show cause why higher compensation be not determined, having regard to the said violations, having regard to their financial capacity.

A copy of the Impugned Report is marked and annexed, herewith, as *Annexure – A*.

A copy of order dated 15.02.2022 passed by this Hon’ble Tribunal in *O.A. 104 of 2018* is marked and annexed, herewith, as *Annexure – B*.

3. Pursuant to the Order, CECB issued a Notice dated 3.03.2022 (“**Impugned Notice**”) directing JSPL to pay the environmental compensation within 2 months which is the subject matter of the captioned Application. Furthermore, a Show-Cause Notice dated 3.03.2022 (“**SCN – Enhanced Levy**”) was issued by CECB asking JSPL to show-cause as to why the compensation affirmed against JSPL should not be enhanced in terms of Order.

A copy of the Impugned Notice is marked and annexed, herewith, as *Annexure – C*.

A copy of the SCN – Enhanced Levy is marked and annexed, herewith, as *Annexure – D*.



**FACTUAL BACKGROUND NECCESITATING THE FILING
OF THE PRESENT OBJECTIONS**

4. The factual background leading up to filing of the present Application is as follows:

- a. The captioned matter bearing *O.A. 104 of 2018* titled as *Shivpal Bhagat vs Union of India & Ors.* was filed before this Hon'ble Tribunal on 28.02.2018 praying for issuance of directions to the Respondent Authorities to, *inter-alia*, take remedial steps with respect to the allegations of pollution caused by the thermal power plants, the coal mines and coal washeries in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh, including JPL, M/s Jindal Steel & Power Limited, M/s TRN Energy Private Limited, M/s Mahavir Energy & Coal Benefaction Limited, M/s. Hindalco Industries Limited and M/s. Monet Energy Limited, SECL, i.e. Project Proponents [hereinafter "PPs"].
- b. As understood from various orders of this Hon'ble Tribunal in the instant matter, several reports were submitted by the Expert Committee constituted by the Hon'ble Tribunal to examine the aspect of environmental damage, remediation measures, fly ash management etc. Further vide order dated 27.02.2020, the Hon'ble Tribunal directed the Expert Committee to act as an Oversight Committee with the CPCB being the nodal agency. The Oversight Committee held several meetings and submitted status reports including the Impugned Report.
- c. It is submitted that JSPL has been regularly engaging a reputed Government Institute namely, Central Institute of Mining and Fuel Research ("CIMFR") for assessing the use of fly ash from the captive power plant with overburden for backfilling at Gare Palma IV/1 Open Cast Coal Mine and its impact on the surrounding environment, if any. CIMFR in its Report has analysed the data obtained from field and laboratory investigation carried out during the period October, 2020 to March 2021 and has *inter alia* analysed the surface



water quality of the Nalah passing through the mine area (“**CIMFR Report**”). The said Report concludes that all the parameters are within the permissible limits in the following terms:

“Test results shows that the surface water quality in the core/buffer zone of the mine was within permissible standards.”

Furthermore, as is evident from the CIMFR Report, there was no pollution or run-off from the backfilled area into the nalla existing within the lease area. Pertinently, the said Report even mentions that the earlier quarterly reports also did not indicate any stability problem or adverse environmental effect due to ash filling in open cast mine.

A copy of the report submitted by CIMFR in March, 2021 is marked and annexed, herewith, as *Annexure – E*.

- d. On 24.08.2021, the Oversight Committee visited Gare Palma IV/1 Open Cast Coal mine. The Committee members are aware that JSPL’s captive power plant situated in Dongamahua has permission for backfilling its fly ash in Gare Palma IV/1 Open Cast Coal Mine. During the visit, the Committee observed that the fly ash mixed with OB was allegedly being backfilled near drain /Nalah passing in mining lease area. The Committee also observed that the distance between disposal site and drain/nallah **seemed to be less than 500 metres** and that during rainy season fly ash **may** take a way to river kelo through Nalah.
- e. JSPL diligently complied with the directions by the Oversight Committee to remove the fly ash mixed with overburden and vide letter dated 28.10.2021, it duly informed the Regional Officer, CECB, Raigarh that the fly ash mixed with overburden had been removed on 24.10.2021 itself, i.e., more than a month before the deadline.

A copy of the letter dated 28.10.2021 sent by JSPL to the Regional Officer, CECB, Raigarh is marked and annexed, herewith, as *Annexure – F*.



f. In fact, JSPL has also engaged Ultimate Envirolytical Solutions, a lab which is recognized by the Ministry of Forest and Climate Change under the Environment Protection Act, 1986, to regularly conduct water quality analysis of the Bendra Nalah i.e the nalah passing through the Gare Palma IV/1 mine area. Moreover, Jindal Power Ltd. (present lessee on the Gare Palma IV/1 coal mine), also engaged IIT Kharagpur for water quality analysis of the Bendra Nalla. Notably, the Report dated 10.09.2021 by IIT, Kharagpur and the latest Report dated 08.02.2022 by Ultimate Envirolytical Solutions clearly show that the water quality of Bendra Nalah (both upstream and downstream) has not been compromised due to the backfilling of ash with OB in the mine voids of Gare Pelma IV/1 Coal Mine. Given that the Oversight Committee has itself engaged Ultimate Envirolytical Solutions (as is evident from pages 107-110 of the Impugned Report) to assess the environmental impact caused by certain other entities/companies such as M/s TRN Energy, M/s Hindalco Limited and has relied on the findings as is evident from the Impugned Report, it only comports with JSPL's submissions and the Hon'ble Tribunal must accord the similar credence to the Report prepared by the same institution/entity, which clearly states that the water quality of Bendra Nalah has not been adversely impacted due to the backfilling of fly ash with OB in the mine voids of Gare Pelma IV/1 Coal Mine.

A copy of the Report submitted by IIT, Kharagpur dated 10.09.2021 is marked and annexed, herewith, as ***Annexure – G.***

A copy of the Reports submitted by Ultimate Envirolytical Solutions dated 8.02.2022 are marked and annexed, herewith, as ***Annexure – H (Colly).***

g. The proceedings undertaken by the Oversight Committee which culminated into the Impugned Report has erroneously



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assessed the environmental compensation amounting to Rs. 11,70,000/- to be paid by JSPL for the alleged violations.

h. Thereafter, an email dated 21.12.2021 was sent by Dr. R.P. Mishra on behalf of Oversight Committee containing the Impugned Report which merely does lip service to the cardinal principle of *audi alteram partem* inasmuch as the contents therein had already been finalised and submitted to this Tribunal. Therefore, no effective opportunity was given to JSPL to challenge the contents of the Impugned Report which are *ex-facie* arbitrary and premised entirely on conjectures. It is humbly submitted that JSPL ought to have been impleaded before passing of the Order as it was a necessary party. A copy of email dated 21.12.2021 sent on behalf of the Oversight Committee to JSPL is marked and annexed, herewith, as *Annexure – I*.

i. Subsequently, the order dated 15.02.2022 (“**Order**”) was passed by this Hon’ble Tribunal in *O.A. 104 of 2018* vide which it was directed that compensation assessed under the Impugned Report be deposited as interim compensation. It was further directed that “*the State Pollution Control Board put all PPs, PWD and Health Departments through the Chief Secretary, Chhattisgarh to notice of these proceedings with view to provide them opportunity to show cause why higher compensation be not determined, having regard to the said violations, having regard to their financial capacity.*”

j. Pursuant to the Order, CECB issued the Impugned Notice which is the subject matter of the instant Application. CECB also issued **SCN- Enhanced Levy** to show cause as to why enhanced compensation should not be levied in terms of the Order. While SCN – Enhanced Levy provides an opportunity to JSPL to present its cause against the enhancement of compensation before this Hon’ble Tribunal, no such liberty was granted in the Impugned Notice constraining JSPL to file the present Objections.



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k. Without prejudice to JSPL's right to challenge the levy of enhanced compensation vide SCN – Enhanced Levy, it is humbly submitted that the environmental compensation assessed at Rs. 11,70,000/- (“**Impugned Levy**”) qua JSPL is liable to be quashed. The same has been levied based on mere visual assessment and is uncorroborated by scientific evidence/quantifiable data.

1. In this regard, it is submitted that the Applicant has been diligent in complying with directions of this Hon'ble Tribunal as also the Oversight Committee which is borne out by the fact that it has deposited the Impugned Levy on 12.04.2022 in terms of this Hon'ble Court's directions vide the Order. However, the same is without prejudice to JSPL's right to challenge the same as detailed hereinbelow.

A copy of the proof of payment of the Impugned Levy by JSPL along with cover letter is marked and annexed, herewith, as *Annexure – J (Colly)*.

5. In the above conspectus, JSPL has filed the present Application seeking to challenge the findings/ compensation assessed qua JSPL in the Impugned Report submitted by the Oversight Committee vide which the Impugned Levy has been calculated as also the Impugned Notice issued by CECB.

6. The present Application is being preferred on the following grounds (among other grounds which JSPL might take at the time of hearing the matter), that may be read conjunctively or disjunctively as the case may be, and without prejudice to one another:

GROUNDS

A. BECAUSE JSPL has promptly removed the fly ash mixed with over-burden on 24.10.2021 and complied with all directions of this Hon'ble Tribunal as also the Oversight Committee as is evident from the follow up visit conducted by the Oversight



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Committee on 24.11.2021 when admittedly, all the flyash-overburden mix was removed from the site.

- B. BECAUSE JSPL has established its diligence and *bonafides* by complying with the directions of the Oversight Committee and removed the alleged violations on 24.10.2021 itself, i.e., more than a month before the deadline.
- C. BECAUSE JSPL's diligence and respect for the Hon'ble Tribunal and directions of the Oversight Committee is further borne out by the fact that it has deposited the Impugned Levy with the CECB on 12.04.2022, on a without prejudice basis and only proceeded to challenge the same vide the present Objections in view of its *bonafide* grievances.
- D. BECAUSE CIMFR analysed the surface water quality of the Nalah passing through the mine and vide its Report submitted in March, 2021, it was concluded that all the parameters are within the permissible limits in the following terms:

“Test results shows that the surface water quality in the core/buffer zone of the mine was within permissible standards.”

Therefore, no environmental damage can be alleged to have taken place.

- E. BECAUSE, as is evident from the CIMFR Report, there was no pollution or run-off from the backfilled area into the nalla existing within the lease area.
- F. BECAUSE as opposed to the detailed CIMFR Report which extensively deals with the issue of utilization of ash along with overburden at Gare Pelma IV/1 Coal Mine and is replete with copious scientific evidence, the Impugned Report submitted by the Oversight Committee reflects inaccuracy and vagueness inasmuch as it merely states that *“The distance between disposal site and Nalah seems to be less than 500m”* without any supporting evidence /scientific proof which establishes that the



practice of backfilling, as done by JSPL, is detrimental to the surrounding environment.

- G. BECAUSE no environmental harm was done by JSPL by virtue of its activities. The contents of the Impugned Report do not state that any environmental damage is attributable to JSPL. In fact, the Report dated 10.09.2021 by IIT, Kharagpur, CIMFR Report and the latest Report dated 8.02.2022 by Ultimate Envirolytical Solutions clearly show that the water quality of Bendra Nalah has not been compromised due to the backfilling of ash with OB in the mine voids of Gare Pelma IV/1 Coal Mine.
- H. BECAUSE it is curious that the Impugned Report does not even mention a single instance which states that JSPL's activity has caused environmental damage but merely proceeds to levy the environmental compensation assessed at Rs. 11,70,000/- without any corroborative evidence.
- I. BECAUSE the environmental compensation assessed at Rs. 11,70,000/- levied on JSPL is liable to be quashed as the same has merely been levied based on visual assessment and is uncorroborated by scientific evidence/quantifiable data.
- J. BECAUSE JSPL has established its diligence and *bonafides* by complying with the directions of the Oversight Committee and removed the fly ash-overburden mix on 24.10.2021 itself, i.e., more than a month before the deadline.
- K. BECAUSE the imposition of the environmental compensation cannot be sustained being bad in law. The said compensation has been levied against JSPL by the Hon'ble NGT without even impleading it in the said proceedings. Such levy is not in accordance with the mandate of law as the same has been imposed without allowing JSPL with an opportunity to explain.
- L. BECAUSE as is evident from the Impugned Report, the Oversight Committee had instructed CECB which in turn



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engaged Ultimate Envirolytical Solutions for collection of water samples for analysis in case of entities such as M/s TRN Energy, M/s Hindalco Ltd. however no such instructions were given by the Oversight Committee qua JSPL and the Committee without any scientific assessment/analysis has imposed the Impugned Levy on JSPL. The same is ex facie arbitrary and speaks volumes about the capricious conduct of the Oversight Committee. Needless to state that the same institution/entity carried out the water quality analysis of Bendra Nalah and found that the water quality of the Nalah has not been adversely impacted due to the backfilling of fly ash with OB in the mine voids of Gare Pelma IV/1 Coal Mine.

- M. BECAUSE without even considering that there has not been any environmental damage, the Oversight Committee has assessed and the Hon'ble NGT has affirmed the entire compensation against JSPL merely on a visual inspection and without any scientific data. The same is ex facie arbitrary and unreasonable.

PRAYERS

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

- a. Pass an order quashing and setting aside the findings/assessment of compensation qua JSPL in the Impugned Report dated 16.12.2021 submitted by the Oversight Committee to this Hon'ble Tribunal in *O.A. 104 of 2018*;
- b. Pass an order declaring that the amount of Rs. 11,70,000/- as calculated by the Oversight Committee vide Impugned Report dated 16.12.2021 is incorrect and liable to be quashed;
- c. Pass an order quashing the Impugned Notice vide which JSPL was directed to deposit the amount of Rs. 11,70,000/- as environmental compensation within 2 months and all incidental proceedings thereto;



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- d. Pass an order directing the CECB to refund the amount of Rs. 11,70,000/- with interest, paid by JSPL in terms of the Order and the Impugned Notice;
- e. Pass such other, further orders, directions and decree as this Hon'ble Court may deem fit in the facts and circumstances of this case and in the interest of justice.



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THR.

N. Joshi

NAMAN JOSHI | GUNEET SIDHU
ADVOCATES FOR JINDAL STEEL & POWER LIMITED
CHAMBERS OF JOSHI & SINGH
G-46, L.G.F.,
JANGPURA EXTENSION,
NEW DELHI – 110 014
+91 98100 57280
naman.joshi@CJSlegal.in

DATE: 11.05.2021

PLACE: NEW DELHI



VERIFICATION:

I, Rajan Anand S/o Late Shri B.K. Anand, aged about 50 years, Authorized Representative of Jindal Steel & Power Limited, having its office at Jindal Centre, 12, Bhikaiji Cama Place New Delhi – 110 066 do hereby solemnly affirm and verify that the contents of Paras 1–6 are true and correct as per the official records of JSPL or based on legal advice and nothing material has been concealed therefrom.

Verified at New Delhi on this 11 day of May, 2022



N. Joshi

BEFORE THE NATIONAL GREEN TRIBUNAL **310**
PRINCIPAL BENCH, NEW DELHI

I.A. NO. _____ OF 2022

IN

ORIGINAL APPLICATION NO: 104 OF 2018

IN THE MATTER OF:

SHIVPAL BHAGAT & ORS.

...APPLICANT(S)

VERSUS

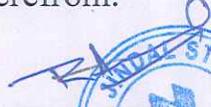
UNION OF INDIA & ORS.

...RESPONDENT(S)

I, Rajan Anand S/o, Late Shri B.K. Anand, aged about 50 years having its office at Jindal Centre, 12, Bhikaiji Cama Place New Delhi – 110 066 being authorised representative of the Jindal Steel & Power Limited, do hereby solemnly state and affirm as hereunder:

1. I am the authorized representative of Jindal Steel & Power Limited and am well conversant with the facts and circumstances of the present case, and hence am competent to swear the present affidavit.
2. I have read and understood the contents of the accompanying Application and state that the facts stated therein are true to my knowledge and belief or are based on the official records of JSPL and nothing material has been concealed therefrom.


I identify the Deponent who has signed about T.I. in my presence


DEPONENT



VERIFICATION:

Verified at New Delhi on this ___ day of _____, 2022 that the contents of the above affidavit are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

4 MAY 2022



ATTESTED
NOTARY (Govt. of India)
Neelam Sharma
Advocate
Ct. No. 165A, Gate No. No. 11,
Patilala House Courts,
New Delhi-110001
(MIS 8899408301)




DEPONENT

ATTESTED
NOTARY (Govt. of India)
Neelam Sharma
Advocate
Ct. No. 165A, Gate No. No. 11,
Patilala House Courts,
New Delhi-110001
(MIS 8899408301)

4 MAY 2022



O/C
ANNEXURE - F (COLLY)WITHOUT PREJUDICE

Date: 12.04.2022

To
The Member Secretary
Chhattisgarh Environment Conservation Board
Paryavas Bhavan, North Block Sec.19
Atal Nagar, Naya Raipur,
Chhattisgarh – 492002

Subject: - Payment of Environmental Compensation under protest.

Ref.: - (i) Letter no. 2567 dated 03.03.2022 issued by Chhattisgarh Environment Conservation Board, Raigarh (CECB) ('Letter'); (ii) Order dated 15.02.2022 issued by the Hon'ble Nation Green Tribunal in the matter of Shivpal Bhagat v. Union of India (O.A. No. 104/2018)

Dear Sir,

1. This is with reference to the abovementioned Letter dated 03.03.2022 ('Letter'), whereby the Company has been called upon to deposit the environmental compensation as interim compensation for alleged violations by the Company. However, it is Company's case that the said compensation has been wrongly assessed and affirmed by the Oversight Committee in its Report dated 16.12.2021 and erroneously relied upon by the Hon'ble NGT vide order dated 15.02.2022 ('Order').
2. Vide the Order, an amount of Rs. 11,70,000/- has been imposed as interim environmental compensation on the Company. Such imposition/levy is disputed for being patently illegal, without jurisdiction, arbitrary and unreasonable as the same has been levied based on visual assessment and is uncorroborated by scientific evidence/data and the Company is taking requisite steps in this regard to challenge the same.
3. Without prejudice to the above and under protest, we are herewith enclosing a Demand Draft No. 512729 dated 31.03.2022 of Rs. 11,70,000/- (Rupees eleven lacs seventy thousand only) in favour of MS (EC), C. G. Environment Conservation Board.

Jindal Steel & Power Limited

Work Office Jindal Steel & Power Limited, Dongamahua, Dhaurabhata (PO), Raigarh 496107 (CG)

T +91 7767-200401 – 04 (04 lines) F +91 7767 200400 W www.jindalsteelpower.com

Registered Office O. P. Jindal Marg, Hisar, 125 005, Haryana

Corporate Identity Number - L27105HR1979PLC009913



N. J. Singh

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4. As noted above, the said payment is being made without prejudice and may not be considered as an admission of any kind. The Company specifically reserves its rights to challenge the imposition of compensation in appropriate legal proceedings, including but not limited to, seeking refund of the amount being paid under the cover of the present letter.

Thanking you.

Yours Sincerely

For Jindal Steel & Power Limited



(Arup Pal)

Executive Vice President & Unit Head

Cc: The Regional Officer,

Chhattisgarh Environment Conservation Board,

T.V. Tower Road, Raigarh (C.G.)

Jindal Steel & Power Limited

Work Office Jindal Steel & Power Limited, Dongamahua, Dhaurabhata (PO), Raigarh 496107 (CG)

T +91 7767-200401 – 04 (04 lines) F +91 7767 200400 W www.jindalsteelpower.com

Registered Office O. P. Jindal Marg, Hisar, 125 005, Haryana

Corporate Ident  5HR1979PLC009913

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भारतीय स्टेट बैंक
State Bank of India
Issuing Branch: TAMILNADU
कोड क्र. / CODE No: 03741
Tel No. 07767-281823

मांगद्राफ्ट
DEMAND DRAFT

Key: RIBLOS
Sr. No.: 109909

3 1 0 3 2 0 2 2
D D M M Y Y Y Y

मांगे जाने पर MS (EC) C.G. ENVIRONMENT CONSERVATION BOARD
ON DEMAND PAY

रुपये RUPEES Eleven Lakh Seventy Thousand Only

या उनके आदेश पर
OR ORDER

IOI 000522512729 Key: RIBLOS Sr. No.: 109909
Name of Applicant JINDAL STEEL AND POWER LIMITED

अदा करें ₹ 1170000.00
मूल्य प्राप्त / VALUE RECEIVED

STATE BANK OF INDIA
अदाकर्ता शाखा / DRAWEE BRANCH: RAIPUR MAIN BRANCH
कोड क्र. / CODE No: 00461

भारतीय स्टेट बैंक

STATE BANK OF INDIA

अदाकर्ता शाखा / DRAWEE BRANCH: RAIPUR MAIN BRANCH

कोड क्र. / CODE No: 00461

केवल 3 महीने के लिए वैध
VALID FOR 3 MONTHS ONLY

कम्प्यूटर द्वारा मुद्रित होने पर ही वैध
VALID ONLY IF COMPUTER PRINTED

प्रतिष्ठान प्रमुख/सचिव
AUTHORISED SIGNATORY
BRANCH MANAGER

Signature
25/10/20

अधिक के लिखत दो अधिकारियों द्वारा हस्ताक्षरित होने पर ही वैध है।
INSTRUMENTS FOR ₹ 1,00,000/- & ABOVE ARE NOT VALID UNLESS SIGNED BY TWO OFFICERS

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SESHASAI(D)/CTS-2010

N. J. P. M.

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ANNEXURE - G

402

SUPREME COURT CASES

(2004) 6 SCC

(2004) 6 Supreme Court Cases 402

(BEFORE S. RAJENDRA BABU, C.J. AND G.P. MATHUR, J.)

DEEPAK NITRITE LTD.

.. Appellant: ^a

Versus

STATE OF GUJARAT AND OTHERS

.. Respondents.

Civil Appeals No. 1521 of 2001[†] with Nos. 1522-28 of 2001,
decided on May 5, 2004

A. Environment Protection and Pollution Control — Polluter-Pays Principle — Applicability — Held, compensation/damages can be awarded under, only if damage has been caused to the environment by the person concerned — To say that mere violation of the law in not observing the norms would result in damage/degradation of the environment, is not correct — There must be a finding that such damage has in fact resulted — Since, on facts, there was no such finding, High Court directed to further investigate the matter in each of the cases — Such investigation not to be as if it were in an action in tort, but as an action in public law — A broad conclusion in this regard by the High Court would be sufficient — Other directions also given — Environment (Protection) Act, 1986 — S. 3 ^b

B. Environment Protection and Pollution Control — Polluter-Pays Principle — Compensation — Measure of — Percentage of annual turnover of polluter as a method — If permissible — Held, compensation to be awarded must have some broad correlation not only with the magnitude and capacity of the enterprise but also with the harm caused by it — Maybe, in a given case the percentage of turnover itself may be a proper measure, because the method to be adopted in awarding damages on the basis of the said principle has got to be practical, simple and easy in application — Environment (Protection) Act, 1986 — S. 3 — Torts — Compensation — Measure of ^c

A petition was filed before the High Court in public interest alleging large-scale pollution caused by industries located in Gujarat Industrial Development Corporation (GIDC) Industrial Estate at Nandesari. It is alleged that effluents discharged by the said industries into the effluent treatment project had exceeded certain parameters fixed by the Gujarat Pollution Control Board (GPCB), thereby causing damage to the environment. On 9-5-1997 the High Court passed an order directing the industries to pay 1% of the maximum annual turnover of any of the preceding three years towards compensation and betterment of environment within a stipulated time. The appeal was against this order. ^d

Disposing of the appeals in the terms below, the Supreme Court

Held :

The fact that the industrial units in question have not conformed with the standards prescribed by GPCB, cannot be seriously disputed in these cases. But the question is whether that circumstance by itself can lead to the conclusion that such lapse has caused damage to the environment. No finding is given on that aspect which is necessary to be ascertained because compensation to be awarded ^e

[†] From the Judgment and Order dated 26-3-1997 and 9-5-1997 of the Gujarat High Court in C. Applns. Nos. 322, 2108 and 2949 of 1997 in SC Appln. No. 2922 of 1995 : (1997) 1 Guj LR 1062 ^f

N. J. P. M.

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DEEPAK NITRITE LTD. v. STATE OF GUJARAT

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a must have some broad correlation not only with the magnitude and capacity of the enterprise but also with the harm caused by it. Maybe, in a given case the percentage of the turnover itself may be a proper measure because the method to be adopted in awarding damages on the basis of “polluter-to-pay” principle has got to be practical, simple and easy in application. The appellants also do not contest the legal position that if there is a finding that there has been degradation of environment or any damage caused to any of the victims by the activities of the industrial units certainly damages have to be paid. However, to say that mere violation of the law in not observing the norms would result in degradation of environment would not be correct. (Para 6)

b Therefore, the High Court is directed to further investigate in each of these cases and find out broadly whether there has been any damage caused by any of the industrial units by their activities in not observing the norms prescribed by GPCB as reported by the Modi Committee appointed by the High Court or by an expert body like NEERI and that exercise need not be undertaken by the High Court as if the present proceeding is an action in tort but an action in public law. c A broad conclusion in this regard by the High Court would be sufficient. Therefore the High Court is directed to re-examine this aspect of the matter as to whether there is degradation of environment and as a result thereof any damage is caused to any victim, and what norms should be adopted in the matter of awarding compensation in that regard. In this process it is open to the High Court to consider whether 1% of the turnover itself would be an appropriate formula or not as applicable to the present cases. (Para 7)

d *Pravinbhai Jashbhai Patel v. State of Gujarat*, (1995) 36 Guj LR 1210; *M.C. Mehta v. Union of India*, (1987) 4 SCC 463 : AIR 1988 SC 1037; *Virender Gaur v. State of Haryana*, (1995) 2 SCC 577, referred to
e *Consumer Education & Research Centre v. Union of India*, (1995) 3 SCC 42 : 1995 SCC (L&S) 604 : AIR 1995 SC 922; *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647; *M.C. Mehta v. Union of India*, (1987) 1 SCC 395 : 1987 SCC (L&S) 37, cited

D-M/30106/C

Advocates who appeared in this case:

f T.R. Andhyarujina (Amicus Curiae), R.F. Nariman and R.P. Bhatt, Senior Advocates (Maulin Raval, Ashish Chugh, Srikant Doijode, Jay Savla, Ms Reena Bagga, Ms Hemantika Wahi, Ms Aruna Gupta, K.R. Sasiprabhu, Ms Manik Karanjawala, H.S. Parihar, P.H. Parekh, E.R. Kumar, Sanand Ramakrishnan, Vijay Panjwani, Aniruddha P. Mayee, Arvind Minocha, Anip Sachhey, Shrinivas R. Khalap, E. Venu Kumar, Harshad V. Hameed, E.C. Agarwala, Sunil Dogra, Ms Sayali Pathak, Chirag M. Shroff, M.N. Shroff and Ms Meenakshi Arora, Advocates) for the appearing parties.

Chronological list of cases cited

		on page(s)
	1. (1996) 5 SCC 647, <i>Vellore Citizens' Welfare Forum v. Union of India</i>	405f, 406a
g	2. (1995) 36 Guj LR 1210, <i>Pravinbhai Jashbhai Patel v. State of Gujarat</i>	404g-h, 405g, 406d-e, 406f-g, 407b
	3. (1995) 3 SCC 42 : 1995 SCC (L&S) 604 : AIR 1995 SC 922, <i>Consumer Education & Research Centre v. Union of India</i>	405b
	4. (1995) 2 SCC 577, <i>Virender Gaur v. State of Haryana</i>	405b
	5. (1987) 4 SCC 463 : AIR 1988 SC 1037, <i>M.C. Mehta v. Union of India</i>	405b
h	6. (1987) 1 SCC 395 : 1987 SCC (L&S) 37, <i>M.C. Mehta v. Union of India</i>	407d-e

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The Judgment of the Court was delivered by

S. RAJENDRA BABU, C.J.— These appeals arise out of a series of orders made by the High Court of Gujarat. A petition was filed before the High Court in public interest alleging large-scale pollution caused by industries located in Gujarat Industrial Development Corporation (GIDC) Industrial Estate at Nandesari. It is alleged that effluents discharged by the said industries into the effluent-treatment project had exceeded certain parameters fixed by the Gujarat Pollution Control Board (GPCB), thereby causing damage to the environment. Some of the industries have set up their own effluent-treatment plants in their factory premises, while some of them have not. The High Court, by an order made on 17-4-1995, directed that the chemical industries in Nandesari should be made parties to the proceedings; thereby 252 industrial units located in Nandesari Industrial Estate, Baroda were made parties to the proceedings, apart from the State of Gujarat, the Central Pollution Control Board, Gujarat Industrial Development Corporation and Nandesari Industries Association. The High Court also issued notices to financial institutions or banks in respect of these proceedings.

2. On 5-5-1995 the High Court appointed a Committee under the Chairmanship of Dr. V.V. Modi to ascertain the position with regard to the extent of pollution in Nandesari Industrial Estate. A common effluent-treatment plant (CETP) was erected by GIDC in Nandesari Industrial Estate on the contribution made by the industrial units in Nandesari Industrial Estate to the extent of about Rs 300 lakhs. Inasmuch as CETP was not achieving the required parameters laid down by GPCB, the High Court, by an order made on 7-8-1996, appointed NEERI as a consultant to assess the treatment facilities and to provide suitable rectification measures for upgrading CETP and effluent-treatment plant facilities. Dr. Modi Committee made a report on 7-9-1996. The High Court restrained several industries from removing their products from their plant without prior permission of the High Court and thereafter, by an order made on 13-9-1996, the High Court permitted them to dispatch materials by depositing a certain sum of money which was the value of the materials. NEERI submitted its report on 31-10-1996. The High Court, while granting permission to some of the industries to carry on their activities, called for turnover figures and profitability data. On 9-5-1997 the High Court passed an order directing the industries to pay 1% of the maximum annual turnover of any of the preceding three years towards compensation and betterment of environment within a stipulated time. It is against this order that the appellants are before us.

3. The High Court in its impugned order followed a decision of the High Court of Gujarat in *Pravinbhai Jashbhai Patel v. State of Gujarat*¹ wherein it was noticed that the industrial units though aware of the requirements of law had not complied with the same nor did they meet the GPCB parameters and they were irresponsible in not wanting or caring to set up effluent-treatment

1. (1995) 36 Guj LR 1210

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plants but continued to manufacture, and pollute the environment and the concern shown now in meeting with the pollution-control norms is only because of the threatened court order; that pollution caused by these industrial units was adversely affecting a large number of citizens residing in the adjacent cities or villages; that in particular water and air pollution is not only continued in the immediate area in which the pollution is generated, but the same affects other areas as well wherever water or air went; that this Court in *M.C. Mehta v. Union of India*², *Virender Gaur v. State of Haryana*³ and *Consumer Education & Research Centre v. Union of India*⁴ invoked the provisions of Article 21 of the Constitution of India to declare that the citizens have a fundamental right to live decently, unaffected by pollution. After noticing various contentions, the High Court took the view that 1% of the turnover would be a good measure of assessing damages for the pollution caused by the industrial units and that amount should be kept apart by the Ministry of Environment and should be utilised for the works of socio-economic upliftment of the population of the aforesaid affected areas and for the betterment of educational, medical and veterinary facilities and the betterment of the agriculture and livestock in the said villages with certain additional directions in this regard.

4. It is now submitted before us by the appellants that a court has no power to either impose penalty or fine or make any levy for general betterment unless the statute authorised the same; that, however, in awarding damages it is permissible to make the same exemplary or penal; that award of damages is by way of restitution for the damage caused to victims and for restoration or restitution and for restoration of ecology by way of punishment; that, unless a finding is given by the High Court that there had been degradation of environment, question of restitution or awarding damages could not arise; that there is no finding of degradation of environment and, therefore, it is not open to the High Court to impose 1% of the turnover by way of damages. The appellants relied upon a decision of this Court in *Vellore Citizens Welfare Forum v. Union of India*⁵ in support of this contention. Their argument is that the principle of "polluter to pay" cannot be applied unless a finding has been given that the industrial unit concerned is the polluter. In what manner pollution has been caused should have been ascertained, particularly when a separate common effluent-treatment plant had been erected and a channel was provided through which water would flow into the river which would reach the sea thereby not causing any damage anywhere. They seek to bring about difference between *Pravinbhai Jashbhai Patel case*¹ and the present proceedings to contend that in those cases there was direct evidence of damage having taken place and by way of rule of thumb the High Court adopted the standard of 1% of turnover to be paid by way of damages and that this principle cannot always uniformly be

² (1987) 4 SCC 463 : AIR 1988 SC 1037

³ (1995) 2 SCC 577

⁴ (1995) 3 SCC 42 : 1995 SCC (L&S) 604 : AIR 1995 SC 922

⁵ (1996) 5 SCC 647

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applied. They commend us to apply the principle set out by this Court in *Vellore Citizens' Welfare Forum case*⁵ wherein the principle of "polluter to pay" has been applied and wherein it is noticed that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country; once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity; consequently, the polluting industries are absolutely liable to compensate for the harm caused by them to villagers in the affected areas, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas; that the "polluter-pays principle" as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation; that remediation of the damaged environment is part of the process of sustainable development and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

5. Shri T.R. Andhyarujina, learned Senior Advocate, who assisted this Court as amicus curiae with great ability, explained to us the background in which the High Court had passed the impugned order. He submitted that the High Court had followed the earlier decision in *Pravinbhai Jashbhai Patel case*¹ wherein standard of 1% of turnover was adopted for closure of polluting units and payment of compensation by such units for polluting river and land; that the basis of this decision in that case was that the polluting industrial units were not meeting the GPCB norms and the continued violation of the law by industrial units had become a habit; that after elaborate discussion, the High Court had concluded that these industries had caused pollution and, therefore, gave certain directions, including for closure of the industrial units until they observed the GPCB norms; that the directions given by the High Court regarding closure and payment of compensation were complied with by the industrial units and this Court did not interfere with the order made by the High Court, therefore, the methodology adopted by the High Court in *Pravinbhai Jashbhai Patel case*¹ can be applied to other industrial units which are causing pollution; that, after investigation made by the Committee or by an expert body there were reports that the industrial units were causing pollution by not complying with the norms prescribed by GPCB and the High Court, in fact, noticed that a number of units have voluntarily agreed to pay 1% of the turnover of a year out of the last three years and there was consensus between all the industries and for betterment of environment, they voluntarily stated before the Court that 1% shall be paid; that one may say that even some of the units having no treatment plant or having inadequate facilities appeared before the High Court stating that they would voluntarily stop manufacturing till installation of proper treatment plant and were in a position to discharge trade effluent meeting with the GPCB norms. Thus, in these cases, the High Court

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- a restrained firstly, several industries from removing their products from their plant without prior permission of the High Court and thereafter, such units themselves suspended operation of the polluting activities. The High Court, after having considered further reports of the Committee, NEERI and GPCB permitted to restart activities on a trial basis and at the same time, directed that “with regard to 1% payment an order will be passed after the details furnished by the learned counsel”. The High Court thereafter adopted payment of 1% of the turnover method as indicated in *Pravinbhai Jashbhai Patel case*¹.
- b He submitted that in these cases the High Court has through its investigation either by the Committee appointed by itself or expert agency like NEERI found that the industrial units in question were polluting units and had not conformed with the norms prescribed by GPCB and each of the units was discharging effluents into the effluent-channel project constructed by GIDC which in turn discharged the effluents into Mahi river which
- c ultimately reached the sea. Thus the High Court had found that there was extensive environmental degradation as a result of the pollution because of the violation of the pollution laws and on account of such damage, the High Court ordered the payment of 1% compensation as a one-time payment for pollution and damage for a number of years from 1993 to 1996. He further submitted that in no case the High Court ordered compensation without
- d giving a finding that there was environmental degradation and damage as a result of violation or prescribed norms. He also adverted to various decisions of this Court in *M.C. Mehta v. Union of India*⁶ to support the proposition that the measure of compensation must be correlated to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect and such damage not only extends to restitution for the harm to the
- e environment to compensate the victims of the pollution but also cost of restoring the environment by degradation. This Court reiterated the principle of “polluter to pay” to the effect that one of the principles is to levy damages of a certain percentage of total turnover and the right to a clean and hazardless environment has been recognised as a fundamental right under
- f Article 21 of the Constitution. The Court has innovated new methods and strategies for the purpose of securing enforcement of fundamental rights.

- g 6. The fact that the industrial units in question have not conformed with the standards prescribed by GPCB, cannot be seriously disputed in these cases. But the question is whether that circumstance by itself can lead to the conclusion that such lapse has caused damage to environment. No finding is given on that aspect which is necessary to be ascertained because compensation to be awarded must have some broad correlation not only with the magnitude and capacity of the enterprise but also with the harm caused by it. Maybe, in a given case the percentage of the turnover itself may be a proper measure because the method to be adopted in awarding damages on the basis of “polluter-to-pay” principle has got to be practical, simple and easy in application. The appellants also do not contest the legal position that

⁶ (1987) 1 SCC 395 : 1987 SCC (L&S) 37

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if there is a finding that there has been degradation of environment or any damage caused to any of the victims by the activities of the industrial units certainly damages have to be paid. However, to say that mere violation of the law in not observing the norms would result in degradation of environment would not be correct. a

7. Therefore, we direct the High Court to further investigate in each of these cases and find out broadly whether there has been any damage caused by any of the industrial units by their activities in not observing the norms prescribed by GPCB as reported by the Modi Committee appointed by the High Court or by an expert body like NEERI and that exercise need not be undertaken by the High Court as if the present proceeding is an action in tort but an action in public law. A broad conclusion in this regard by the High Court would be sufficient. We, therefore, direct the High Court to re-examine this aspect of the matter as to whether there is degradation of environment and as a result thereof any damage is caused to any victim, and what norms should be adopted in the matter of awarding compensation in that regard. In this process it is open to the High Court to consider whether 1% of the turnover itself would be an appropriate formula or not as applicable to the present cases. b

8. We record our appreciation and gratitude to Shri T.R. Andhyarujina in assisting this Court as amicus curiae. c

9. With these observations, these appeals stand disposed of. d

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(BEFORE S.N. VARIAVA AND ARIJIT PASAYAT, JJ.)

COMMISSIONER OF CUSTOMS, KOLKATA . . . Appellant; e
Versus

RUPA & CO. LTD. . . . Respondent.

Civil Appeals No. 5944 of 2002[†] with Nos. 1975, 3538-62, 3761-63, 4190, 9306-11, 9565-69 of 2003, 1277-85 and 2619 of 2004, decided on July 21, 2004 f

A. Customs Act, 1962 — Ss. 25 and 12 — Exemption — Capital goods imported under EPCG Scheme — Entitlement to 100% exemption under proviso to Noti. No. 29/97-Cus. dated 1-4-1997 — Words “capital goods” required for manufacture of textile garments, held, include not only machinery used directly for manufacture of garments but all machines required for the ultimate manufacture thereof — Hence, fabric/yarn-processing machines, fabric-inspection machines, fabric-knitting machines, fabric-dyeing machines and other such machines imported by garment manufacturers and used to meet the export obligation, held, entitled to 100% exemption — Customs Tariff Act, 1975, S. 3 — Export and Import Policy, April 1997-March 2002 — Customs Tariff — Articles or commodities g

[†] From the Judgment and Order dated 31-1-2002 of the Customs, Excise and Gold (Control) Appellate Tribunal, East Zonal Bench at Kolkata in A. No. C/R-532 of 2001 in FO No. A/154/Kol/2002 h

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ANNEXURE - H



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
(पर्यावरण एवं वन मंत्रालय, भारत सरकार)
(MINISTRY OF ENVIRONMENT & FORESTS, GOVT. OF INDIA)

No.B-29012/ESS(CPA)/2015-16/

March 07, 2016

To

The Chairman
All the State Pollution Control Boards / Pollution Control Committees
(List Attached)

SUB: MODIFIED DIRECTIONS UNDER SECTION 18(1)(b) OF THE WATER (PREVENTION & CONTROL OF POLLUTION) ACT, 1974 and THE AIR (PREVENTION & CONTROL OF POLLUTION) ACT, 1981 REGARDING HARMONIZATION OF CLASSIFICATION OF INDUSTRIAL SECTORS UNDER RED / ORANGE / GREEN / WHITE CATEGORIES.

WHEREAS, under section 16 (2)(b) of the Water (Prevention and Control of Pollution) Act, 1974 and under Section 16 (2)(c) of the Air (Prevention & Control of Pollution) Act, 1981, one of the functions of the Central Pollution Control Board (CPCB), constituted under the Water (Prevention and Control of Pollution) Act, 1974, is to coordinate activities of the State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs); and

WHEREAS, under section 16 (2)(c) of the Water (Prevention and Control of Pollution) Act, 1974 and under Section 16 (2)(d) of the Air (Prevention & Control of Pollution) Act, 1981, one of the functions of the CPCB is to provide technical assistance and guidance to SPCBs and PCCs; and

WHEREAS, it was brought to the notice of CPCB, that different SPCBs /PCCs were following different criteria for classification of industrial sectors under Red/Orange/ Green category and that classification was being used by the SPCBs/PCCs for grant of consents to industries and for Inventorization / surveillance of industries.

WHEREAS, the issue regarding classification of industries was deliberated upon in the 56th Conference of Chairmen & Member Secretaries of CPCB & SPCBs/PCCs held on August 31, 2010 and a working group comprising of representatives from SPCBs & CPCB was constituted to prepare a consolidated list of industrial sectors falling under Red/Orange/Green category to bring uniformity in classification of industrial sectors across the country;

'परिवेश भवन' पूर्वी अर्जुन नगर, दिल्ली-110032

'Parivesh Bhawan', East Arjun Nagar, Delhi - 110032

दूरभाष/Tel. : 43102030, फ़ैक्स/Fax : 22305793, 22307078, 22307079, 22301932, 22304948

ई-मेल/e-mail : cpcb@nic.in वेबसाइट/Website : www.cpcb.nic.in

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WHEREAS, the report prepared by the Working Group was discussed in the 57th Conference of Chairmen & Member Secretaries of CPCB & SPCBs/PCCs held in Delhi on September 15, 2011, wherein some modifications were proposed;

WHEREAS, the final report of the working group was prepared, incorporating the suggestions/observations made in the 57th Conference of Chairmen and Member Secretaries of CPCB & SPCBs/PCCs and in exercise of the powers delegated to the Chairman, CPCB under Section 18(1)(b) of the Water Act, 1974, following directions were issued for compliance to all SPCBs/PCCs to maintain uniformity in categorization of industries as red, orange and green as per list finalized by CPCB, which identified 85 types of industrial sectors as 'Red', 73 industrial sectors as 'Orange' and 86 sectors as 'Green':

a). To maintain uniformity in categorization of industries under Red/ Orange/Green category, the SPCBs /PCCs shall adopt the list as finalized by CPCB based on the recommendations of that Working Group for grant of Consent, inventorization of industries under Red, Orange and Green categories and other related activities.

(b). The SPCBs/PCCs shall revise the list of Red, Orange and Green categories of industries operating in their jurisdiction based on the criteria specified in the final report of that Working Group and submit the same to CPCB within 90 days in hard copy as well as soft copy;

WHEREAS, later-on, it was observed that the process of categorization thus far was primarily based on the size of the industries and consumption of resources and pollution due to discharge of emissions and effluents and its likely impact on health was not considered as primary criteria;

WHEREAS, there have been proposals from the SPCBs / PCCs and industrial associations for categorization of the industrial sectors in a more pragmatic manner. The issue was discussed during the national level conference of the Environment Ministers of the States, held in New Delhi during April 06-07, 2015 and also during the Conference of the Chairmen and Member Secretaries of CPCB and SPCBs/PCCs held in New Delhi on April 08, 2015. Accordingly, a 'Working Group' comprising of the Members from Central Pollution Control Board and State Pollution Control Boards representing the States of Andhra Pradesh, Punjab, Tamilnadu, West Bengal, Madhya Pradesh and Maharashtra, was constituted to revisit the criteria of categorization of industries and suggest rationale based on pollution potential for categorization of industrial sectors and adopting it for implementation of pollution control plan;

WHEREAS, the Working Group has developed the criteria of categorization of industrial sectors based on the concept of Pollution Index which is a function of the emissions (air pollutants), effluents (water pollutants), hazardous wastes generated and consumption of resources. For this purpose the references are taken from the the Water (Prevention and Control

of Pollution) Cess (Amendment) Act, 2003, Standards so far prescribed for various pollutants under Environment (Protection) Act , 1986 and Doon Valley Notification, 1989 issued by MoEFCC. The Pollution Index (PI) of any industrial sector is a number from 0 to 100 and the increasing value of PI denotes the increasing degree of pollution load from the industrial sector;

WHEREAS , based on the series of consultations with SPCBs, different Government / Non-government Institutions including industries and MoEFCC , the following criteria on 'Range of Pollution Index 'for the purpose of categorization of industrial sectors has been finalized:

- o Industrial Sectors having Pollution Index score of 60 and above - Red category
- o Industrial Sectors having Pollution Index score of 41 to 59 -Orange category
- o Industrial Sectors having Pollution Index score of 21 to 40 -Green category
- o Industrial Sectors having Pollution Index score incl. & upto 20 -White category

WHEREAS, based on the revised criteria, the 'Final Report on Revised Categorization of Industrial Sectors under Red/Orange/Green/White' has been evolved. The 'Categorization' is based on the relative pollution potential of the industrial sectors and grouping of the industrial sectors based on the use of raw materials, manufacturing process adopted and pollutants likely to be generated;

WHEREAS, based on relative Pollution Index, the number of industries in various categories are as under :

- i. The Red category of industrial sectors: 60
- ii. The Orange category of industrial sectors: 83
- iii. The Green category of industrial sectors: 63 and
- iv. The Newly introduced White category: 36

WHEREAS, there shall be no necessity of obtaining the Consent to Operate" for White category of industries and an intimation to concerned SPCB / PCC shall suffice;

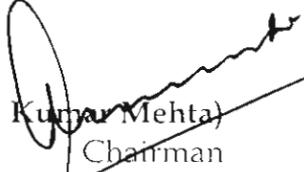
WHEREAS, the purpose of categorization is to ensure that the industry is established in a manner consistent with the environmental objectives and to prompt industrial sectors to adopt cleaner technologies, ultimately resulting in generation of no or minimum pollutants.

WHEREAS the new categorization system shall also facilitate in self-assessment by industries;

Now, therefore, in exercise of the powers delegated to the Chairman, CPCB under Section 18(1)(b) of the Water (Prevention & Control of Pollution) Act, 1974 and Section 18(1)(b) of the Air (Prevention & Control of Pollution), Act , 1981 the earlier Directions issued in June 2012 in the context of categorisation of industries as Red, Orange & Green are withdrawn with immediate effect and following '**Directions**' are hereby issued for compliance by all SPCBs and PCCs :

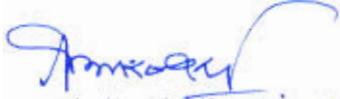
1. That the SPCBs and PCCs shall adopt the Revised Criteria of categorization of industrial sectors as detailed in table nos. F1, F2, F3 and F4 and Revised Lists of Red, Orange, Green and White categories of industrial sectors, presented at table no. G2, G3, G4 and G5 respectively, in the 'Final Report' as attached herewith immediately.
2. That all pending applications for consideration of 'Consent to Establish' and 'Consent to Operate' and future such applications shall be processed as per revised criteria.
3. That the SPCBs and PCCs will provide the list of industries identified in each category existing in the State which have been considered for grant of consents. SPCBs/PCCs will forward the list of such industries before 31.05.2016 and the same will be uploaded on the websites of respective SPCB/PCC.
4. That the 'Revised Lists of Red, Orange, Green and White category of industrial sectors' shall be used by the SPCBs and PCCs for Consent Management and inventorization of industries under Red, Orange, Green and White categories. Siting of industries shall be only in conforming areas. SPCBs / PCCs shall evolve sector specific plans for control of pollution and industrial surveillance for verifying compliance.
5. That the SPCBs and PCCs shall revise /prepare the inventory of Red, Orange, Green and White categories of industries operating in their jurisdiction based on the revised criteria specified in the Final Report and submit the same to CPCB within 90 days i.e., before 30.05.2016 in hard copy as well as soft copy.
6. That the listed category of industries or those identified later-on under different categories shall not be linked to sanction of loan / finance or bank proceedings.
7. That any further addition of any new or left-over industrial sector and their categorization which is not listed in the revised list of Red, Orange, Green and White industrial sectors, shall be done at the level of concerned SPCB /PCC following revised criteria & guidelines as detailed in the attached document and no concurrence of CPCB shall normally be required. It is further clarified that while categorizing the industries, fractional numbers shall be rounded off to nearest integer.

The SPCBs/PCCs shall acknowledge the receipt of directions and submit the 'Action Taken Report' in compliance with these directions to CPCB before 15.04.2016.


(Arun Kumar Mehta)
Chairman
7/3/16

Copy to:

1. The Chief Secretary of all the States and UTs
2. The Secretary ,
Ministry of Micro, Small and Medium Entrepreneurs
Udyog Bhawan, Rafi Marg, New Delhi - 110 011
3. The Secretary ,
Ministry of Heavy Industries
Udyog Bhawan, Rafi Marg, New Delhi - 110 011
4. The Secretary,
Ministry of New and Renewable Energy
Block-14, CGO Complex,
Lodhi Road, New Delhi-110 003,
5. The Advisor(CP Division)
Ministry of Environment ,Forests and Climate Change
Indira Paryavaran Bhawan
Jor Bagh Road, New Delhi - 110 003
6. All Zonal Offices of CPCB


(A. B. Akolkar) 7.3.16
Member Secretary



Final Document
on
Revised
Classification
of
Industrial Sectors
Under

Red, Orange, Green and White Categories
(February 29, 2016)



Central Pollution Control Board
Delhi

N. J. Srinivasan

Executive Summary

Categorization of Industrial Sectors under Red, Orange, Green and White Category

The Ministry of Environment, Forest and Climate Change (MoEFCC) had brought out notifications in 1989, with the purpose of prohibition/ restriction of operations of certain industries to protect ecologically sensitive Doon Valley. The notification introduced the concept of categorization of industries as "Red", "Orange" and "Green" with the purpose of facilitating decisions related to location of these industries. Subsequently, the application of this concept was extended in other parts of the country not only for the purpose of location of industries, but also for the purpose of Consent management and formulation of norms related to surveillance / inspection of industries.

The concept of categorization of industries continued to evolve and as different State Pollution Control Boards interpreted it differently, a need arose to bring about necessary uniformity in its application across the country. In order to harmonize the 'Criteria of categorization', Directions were issued by CPCB under Section 18(1)(b) of the Water (Prevention & Control of Pollution) Act, 1974 to all SPCBs/PCCs to maintain uniformity in categorization of industries as red, green and orange as per list finalized by CPCB, which identified 85 types of industrial sectors as 'Red', 73 industrial sectors as 'Orange' and 86 sectors as 'Green'.

The process of categorization thus far was primarily based on the size of the industries and consumption of resources. The pollution due to discharge of emissions & effluents and its likely impact on health was not considered as primary criteria. There was demand from the SPCBs / PCCs and industrial associations for categorization of the industrial sectors in a more transparent manner. Accordingly, the issue was discussed thoroughly during the national level conference of the Environment Ministers of the States, held in New Delhi during April 06-07, 2015 and a 'Working Group' comprising of the members from CPCB, APPCB, TNPCB, WBPCB, PPCB, MPPCB and Maharashtra PCB is constituted to revisit the criteria of categorization of industries and recommend measures for making the system transparent and rational.

The Working Group has developed the criteria of categorization of industrial sectors based on the Pollution Index which is a function of the emissions (air pollutants), effluents (water pollutants), hazardous wastes generated and consumption of resources. For this purpose the references are taken from the the Water (Prevention and Control of Pollution) Cess (Amendment) Act, 2003, Standards so far prescribed for various pollutants under Environment (Protection) Act, 1986 and Doon Valley Notification, 1989 issued by MoEFCC. The Pollution Index PI of any industrial sector is a number from 0 to 100 and the increasing value of PI denotes the increasing degree of pollution load from the industrial sector. Based on the series of brain storming sessions among CPCB, SPCBs and MoEFCC, the following criteria on 'Range of Pollution Index' for the purpose of categorization of industrial sectors is finalized.



- | | |
|---|------------------|
| ○ Industrial Sectors having Pollution Index score of 60 and above | - Red category |
| ○ Industrial Sectors having Pollution Index score of 41 to 59 | -Orange category |
| ○ Industrial Sectors having Pollution Index score of 21 to 40 | -Green category |
| ○ Industrial Sectors having Pollution Index score incl.&upto 20 | -White category |

The newly introduced White category of industries pertains to those industrial sectors which are practically non-polluting such as Biscuit trays etc. from rolled PVC sheet (using automatic vacuum forming machines), Cotton and woolen hosiers making (Dry process only without any dyeing/washing operation), Electric lamp (bulb) and CFL manufacturing by assembling only, Scientific and mathematical instrument manufacturing, Solar power generation through photovoltaic cell, wind power and mini hydel power (less than 25 MW).

The salient features of the 'Re-categorization' Exercise are as follows :

- Due importance has been given to relative pollution potential of the industrial sectors based on scientific criteria . Further, wherever possible, splitting of the industrial sectors is also considered based on the use of raw materials, manufacturing process adopted and in-turn pollutants expected to be generated.
- The Red category of industrial sectors would be 60.
- The Orange category of industrial sectors would be 83.
- The Green category of industrial sectors would be 63.
- Newly introduced White category contains 36 industrial sectors which are practically non-polluting.
- There shall be no necessity of obtaining the Consent to Operate'' for White category of industries. An intimation to concerned SPCB / PCC shall suffice.
- No Red category of industries shall normally be permitted in the ecologically fragile area / protected area.

The purpose of categorization is to ensure that the industry is established in a manner which is consistent with the environmental objectives. The new criteria will prompt industrial sectors willing to adopt cleaner technologies, ultimately resulting in generation of fewer pollutants. Another feature of the new categorization system lies in facilitating self-assessment by industries as the subjectivity of earlier assessment has been eliminated. This 'Re-categorization' is a part of the efforts, policies and objective of present government to create a clean & transparent working environment in the country and promote the Ease of Doing Business.

Other similar efforts include installation of Continuous Online Emissions/ Effluent Monitoring Systems in the polluting industries, Revisiting of the CEPI (Comprehensive Environment Pollution Index) concept for assessment of polluted industrial clusters, Revision of existing industrial Emission/Effluent discharge standards, initiation of special drive on pollution control activities in Ganga River basin and many more in coming future.



Revised Criteria of Categorization of Industries

“Securing industrial pollution control in accordance with the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 by linking with categorization of industries, consent management and vigilance – ‘In context of Red, Orange, Green and White categories of industries”

A: Genesis of Categorization:

- The Ministry of Environment, Forest and Climate Change (MoEFCC) had brought out notifications, which inter-alia refers to Prohibition/ Restriction on operation of industries to protect ecologically sensitive areas or areas of specific importance. This has for the first time brought the concept of categorization of industries to “Red”, “Orange “and “Green” and restrict their operation in certain areas of importance. Therefore, it is at-once interpreted that Red, Orange and Green categorization is linked with location specific needs.
- The notification of MoEF was first brought on 2nd February, 1989 in case of “Restriction on location of industries, mining operations and other developmental activities in Doon Valley in “Uttarakhand” and thereafter another notification on 24th February 1999 regarding restriction on the setting up of industries in Dahanu Taluka in Maharashtra. The categorization had been made mainly on the basis of size of the industries, man power and consumption of resources.
- However, in other parts of the country, there have been variations in context to the classification of industries under Red, Orange and Green categories. SPCBs / PCCs were following their own criteria in different States thereby creating confusion.
- In order to harmonize the ‘Criteria of categorization’, a ‘Working Group’ was formed as per resolution passed during the 57th Conference of the Chairmen & Member Secretaries of CPCB and SPCBs. Based on the recommendations of the Working Group, Directions dated 4/6/2012 under Section 18(1)(b) of the Water



(Prevention & Control of Pollution) , Act, 1974 were issued to all SPCBs/PCCs with the effects to maintain uniformity in categorization of industries as red, green and orange as per list finalized by the Working Group. This indicative list included 85 types of industrial sectors as 'Red', 73 industrial sectors as 'Orange' and 86 sectors as 'Green'. However, these identified categories have not been assigned with scores as per existing criteria/ or any new criteria

B: Categorization criteria used by SPCBs/PCCs:

SPCBs and PCCs use the criteria of Red, Orange and Green categories for consent management and vigilance purposes for carrying out inspections to verify compliance to the stipulated standards. However the above categorization do not emphasize on sector-specific plan for control of pollution in accordance with priority based on pollution index.

C: Gap in the process:

1. The categorization has been made mainly on the basis of size of the industries and consumption of resources. The pollution due to discharge of emissions & effluents and its impact on health was not considered as primary criteria.
2. Categorization was on random basis, no scoring system was adopted.

D: Resolutions made during National Level Conferences

The issue was discussed thoroughly during the following national level conferences held in New Delhi:

- Conference of the Environment Ministers of Central Government and State Governments during April 06-07, 2015
- 59th Conference of Chairmen & Member Secretaries of Pollution Control Boards / Pollution Control Committees held on April 08, 2015

Accordingly following resolutions were made during the Conferences:



1. A 'Working Group' comprising of the members from CPCB, APPCB, TNPCB, WBPCB, PPCB, MPPCB and Maharashtra PCB is constituted.
2. This WG shall revisit the categorization of industries that is based on pollution index criteria & environmental issues such as generation of emission, effluent and hazardous wastes.
3. The categorization will be done on the basis of composite score (0-100 marks) of Pollution Index given in accordance with the following weightage.

Air Pollution Score based on parameters namely PM, CO, NO _x , SO _x , HMs, Benzene, Ammonia and other toxic parameters relevant to the industry.	40 Marks
Water Pollution Score based on parameters namely pH, TSS, NH ₃ -N, BOD, Phenol and other toxic pollutants relevant to the industry.	40 Marks
Hazardous wastes (land fillable, incinerable, recyclable) as generated by the industry.	20 Marks
<p>Note :</p> <ul style="list-style-type: none"> • Parameters to be decided on the basis of the nature of the wastes generating from the industrial sector. • Industries having only either water pollution or air pollution, the score will be normalized wrt 100. 	

4. Based on the score of the Pollution Index, following categorization be made :
 - Type of industries, if scores 60 and above be categorized as Red
 - Type of industries, if scores from 30 to 59 be categorized as Orange
 - Type of industries, if scores from 15 to 29 be categorized as Green
 - Type of industries, if less than 15 be categorized as White or non-polluting industry.
5. SPCBs/PCCs may issue consent to the industries
 - Red category of industries for 5 years.
 - Orange category of industries for 10 years.
 - Green category of industries for 15 years.
 - No necessity of consent for non-polluting industries.
6. No red categories of industries will be permitted to establish in eco-sensitive areas and protected areas.

E: Follow-up Actions made on the Resolutions :-

- Accordingly, a Committee comprising the Chairmen of CPCB, APPCB, TNPCB, MPPCB, MPCB, PPCB, WBPCB and MS, CPCB was constituted vide CPCB OM dated

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23.04.2015 to review & classify industrial sectors into different categories based on criteria of respective pollution potential.

- The categorization is made on the basis of following:
 - Quality of emissions (air pollutants) generated
 - Quality of effluents (water pollutants) generated
 - Types of hazardous wastes generated
 - Consumption of resources

- Reference is taken from the following :
 - The Water (Prevention and Control of Pollution) Cess Act, 1977
 - Standards so far prescribed for various pollutants under the Environment (Protection) Act , 1986
 - Doon Valley Notification, 1989 issued by MoEF.

F : Scoring Methodology :

The details on the scoring methodology in respect of the aforesaid 3 components is presented in the following tables F-1 to F-4 .

Table F-1 : Water Pollution Scoring Methodology

Sl. No.	Activity / Types of Discharges	Score
Part A : Score W1 : Score based on types of expected criteria water-pollutants present in industrial processes waste waters. Maximum of the following seven categories is to be taken.		
W11	Waste-water which is polluted and the pollutants are - <ul style="list-style-type: none"> • not easily biodegradable (very high strength waste waters having BOD > 5000 mg/l); or • toxic; or • both toxic and not easily biodegradable. (Presence of criteria water pollutants having prescribed standard limits up-to 10 mg/l or having BOD > 5000 mg/l). For details appendix 1 may be referred)	30
W12	Non-toxic high strength polluted waste-water having BOD in the range of 1000-5000 mg/l and the pollutants are biodegradable. <p>(Presence of criteria water pollutants having prescribed standard limits from 11 mg/l to 250 mg/l and having BOD strength in the range of 1000-5000 mg/l) . For details appendix 1 may be referred)</p>	25
W13	Non toxic- polluted waste-water having BOD below 1000 mg/l and the pollutants are easily biodegradable. <p>(Presence of criteria water pollutants having prescribed standard limits from 11mg/l to 250 mg/l and having BOD strength below 1000 mg/l) . For details appendix 1 may be referred)</p>	20
W14	Waste-water generated from the chemical processes and which is polluted due to presence of high TDS (total dissolved solids) of inorganic nature. <p>(Presence of criteria water pollutants having prescribed standard limits more than 250 mg/l. For details appendix 1 may be referred)</p>	15
W15	Waste-water generated from the physical unit operations / processes and which is polluted due to presence of TDS (total dissolved solids) of inorganic nature and of natural origin like fresh-water RO rejects, boiler blow-downs, brine solution rejects etc. <p>(Presence of criteria water pollutants having prescribed standard limits more than 250 mg/l. For details appendix 1 may be referred)</p>	12
W16	Non-toxic polluted waste-water from those units which are: <ul style="list-style-type: none"> • Having the overall waste-water generation less than 10 KLD and • The pollutants are easily bio-degradable having BOD below 200 mg/l which can be easily treated in a single stage ASP (activated 	12



	sludge process) based Effluent Treatment Plant. Note : This is a special category and is applicable to only those units having over-all liquid waste generation less than 10 KLD with low strength organic load.	
W17	Waste-water from cooling towers and cooling-re-circulation processes	10
Part B : Score W2 : Score based on huge discharges of any kind (Penalty Clause)		
W2	Industry having overall liquid waste generation of 100 KLD or more including industrial & domestic waste-water.	10
Overall Water Pollution Score $W = W1+W2$		



Appendix 1

- **Water Pollutants covered under Group W11:**
 - ✓ Free available Chlorine , Total residual chlorine, Fluoride (as F), Sulphide (as S), Free Ammonical Nitrogen, Dissolved phosphates (as P), Free ammonia (as NH₃), Nitrate Nitrogen, Mercury (As Hg), Selenium (as Se), Hexa-valent chromium (as Cr + 6), Lead (as Pb), Tin , Vanadium (as V), Cadmium (as Cd), Manganese (as Mn), Total chromium (as Cr), Copper (as Cu), Iron (as Fe), Nickel (as Ni), Zinc (as Zn), Benzene, Arsenic (as As), Benzo-a-pyrene, Cyanide (as CN), Phenolic compounds (as C₆H₅OH) , Adsorbable Organic Halogens (AOX), Boron and /or
 - ✓ BOD strength of waste water > 5000 mg/l
- **Water Pollutants covered under Group W12:**
 - ✓ Sodium Absorption Ratio (SAR) , Biochemical oxygen demand (3 days at 27°C), Total Kjeldahl nitrogen (TKN), Ammonical nitrogen (as N), Suspended solids, Total nitrogen (as N), Chemical oxygen demand, Oils & grease and
 - ✓ BOD strength of waste water is in the range of 1000-5000 mg/l
- **Water Pollutants covered under Group W13:**
 - ✓ Sodium Absorption Ratio (SAR), Biochemical oxygen demand (3 days at 27°C), Total Kjeldahl nitrogen (TKN), Ammonical nitrogen (as N), Suspended solids, Total nitrogen (as N), Chemical oxygen demand and
 - ✓ BOD strength of waste water is below 1000 mg/l
- **Water Pollutants covered under Group W14 and W15:**

Chlorides as Cl, Colour , Total dissolved solids (TDS - Inorganic)
- **Water Pollutants covered under Group W16**
 - ✓ BOD strength of waste water is below 200 mg/l and overall discharge is less than 10 KLD.



Table F-2 : Air Pollution Score

Sl. No.	Air Pollutants Group	'Range of Prescribed Standard' of criteria pollutants	Marks
Part 1 : Score A1 = Score based on types of expected criteria Air Pollutants present in the emissions . Maximum of the following seven categories is to be taken. For details appendix 2 may be referred.			
1	Group A1A	Presence of criteria air pollutants having prescribed standard limits up - to 2 mg/Nm ³	30
2	Group A1B	Presence of criteria air pollutants having prescribed standard from 3 to 10 mg/Nm ³	25
3	Group A1C	Presence of criteria air pollutants having prescribed standard from 11 to 50 mg/Nm ³	20
4	Group A1D	Presence of criteria air pollutants having prescribed standard from 51 to 250 mg/Nm ³	15
5	Group A1E	Presence of criteria air pollutants having prescribed standard from 251 mg/Nm ³ & above.	10
6	Group A1F	<ul style="list-style-type: none"> • Generation of fugitive emissions of Particulate Matters which are: <ul style="list-style-type: none"> ○ Not generated as a result of combustion of any kind of fossil-fuel. ○ Generated due to handling / processing of materials without involving the use of any kind of chemicals. ○ Which can be easily contained / controlled with simple conventional methods 	10
7	Group A1G	<ul style="list-style-type: none"> • Generation of Odours which are : <ul style="list-style-type: none"> ○ Generated due to application of binding gums / cements / adhesives / enamels ○ Which can be easily contained / controlled with simple conventional methods 	10
Part 2 : Score A2 = Score based on consumption of fuels and technologies required for air pollution control :			
6	Group A2F1	<ul style="list-style-type: none"> • All such industries in which the daily consumption of coal/fuel is more than 24 MT/day and the particular (Particulate/gaseous/process) emissions from which can be controlled only with high level equipments / technology like ESPs, Bag House Filters, High Efficiency chemical wet scrubbers etc. 	10
7	Group A2F2	<ul style="list-style-type: none"> • All such industries in which the daily consumption of coal/fuel is from 12 MT/day to 24 MT/day and the particular (Particulate/gaseous/process) emissions from which can be controlled with suitable proven technology. 	5
Overall Air Pollution Score - A = A1 + A2			



- Air pollutants covered under Group A1A:
Cd+Th, Dioxins & Furans, Mercury, Asbestos
- Air Pollutants covered under Group A1B:
HF, Nickel+ Vanadium, HBr, Manganese, Lead, H₂S, P₂O₅ as H₃PO₄
- Air Pollutants covered under Group A1C:
Chlorine, Pesticide compounds, CH₃Cl, TOC, Total Fluoride, Hydrocarbons, NH₃, HCL vapour & Mist, H₂SO₄ Mist, SO₂
- Air Pollutants covered under Group A1D:
CO, PM, CO, NO_x
- Air Pollutants covered under Group A1E:
NO_x with liquid-fuel, SO₂ with liquid-fuel

Table F-3: Hazardous Waste Generation Score

Sl.No.	Types of Hazardous Waste Generated as per Schedule 1 / Schedule 2 of Hazardous Waste (Management, Handling & Trans-boundary Movement) Rules , 2008 . Maximum of the following four categories is to be taken	Score
HW1	<ul style="list-style-type: none"> • Land disposable HW which require special care & treatment for stabilization before disposal. 	20
HW2	<ul style="list-style-type: none"> • Incinerable HW 	15
HW3	<ul style="list-style-type: none"> • Land disposable HW which doesn't require treatment & stabilization before disposal. • High volume low effect wastes such as fly-ash, phspho-gypsum, red-mud, slags from pyro-metallurgical operations, mine tailings and ore beneficiation rejects) 	10
HW4	<ul style="list-style-type: none"> • Recyclable HW, which are easily recyclable with proven technologies. 	10

Table F-4 : Calculation Sheet
Industrial Sector -

1. Water Pollution Score (W)			
Scores	Waste Water Category	Value	
Score on W1			
Score on W2			
Water Pollution Score = W1+W2			
2. Air Pollution Score (A)			
Scores	Air Pollutant Category	Value	
Score on A1			
Score on A2	-	-	
Air Pollution Score = A1+A2			
3. Hazardous Waste Score (HW)			
Score	HW Category	Value	
HW			
Grand Total = W + A + HW			

Note :

- Any of the industrial sector having only either air pollution (A) or water pollution (W) , the score will be normalized to 100 as per the following formula -

$$\text{Normalized Score} = \{100 \times W \text{ (or A)}\} / 40$$

- Any of the industrial sector having air pollution (A) and water pollution (W) both but no hazardous waste generation (H) , the joint score of air & water pollution will be normalized to 100 as per the following formula -

$$\text{Normalized Score} = \{100 \times (W+A)\} / 80$$

- Any of the industrial sector having air pollution (A) & hazardous waste generation (H) but no water pollution (W), the joint score of air pollution & hazardous waste generation will be normalized to 100 as per the following formula -

$$\text{Normalized Score} = \{100 \times (A+H)\} / 60$$

- Any of the industrial sector having water pollution (W) and hazardous waste generation (H) but no air pollution (A), the joint score of water pollution & hazardous waste generation will be normalized to 100 as per the following formula -

$$\text{Normalized Score} = \{100 \times (W+H)\} / 60$$

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G : Developments :

- i. The existing Red (85 sectors) , Orange (73 sectors) and Green (86 sectors) i.e a total of 244 industrial sectors have been assessed as per the proposed formula by the Working Group. For this purpose, concerned Engineers / Scientists from the Member SPCBs were also involved & consulted during May 28-29, 2015.
- ii. After careful examination and consideration of the suggestions of concerned stake-holders the “Draft Document on Revised Concept of Categorization of Industrial Sectors “ was prepared by the Committee and circulated to all the SPCBs, PCCs and concerned Ministries for their information & comments. The ‘ Draft Document ’ was uploaded on the website of CPCB also for information & comments of one & all.
- iii. The matter was discussed during the 170th Board Meeting also and issues raised by the Board Members pertaining to some of the industrial sectors were clarified.
- iv. Responses were received from various concerned Ministries, SPCBs, Industrial Associations including individuals.
- v. Based on the above, final meeting was convened by the Secretary , MoEFCC with CPCB and senior officers of MoEFCC on January 06, 2016 to resolve the issues appropriately and finalize the ‘Re-categorization’. Accordingly , following modifications in the ‘Range of Pollution Index ‘for the purpose of categorization of industrial sectors were suggested :
 - Industrial Sectors having Pollution Index score of 60 and above – Red category
 - Industrial Sectors having Pollution Index score of 41 to 59 –Orange category
 - Industrial Sectors having Pollution Index score of 21 to 40 –Green category
 - Industrial Sectors having Pollution Index score incl.& upto 20 –White category
- vi. Based on the final criteria as described in v above , the final categorization is as follows :

Category of Industrial Sector	Existing Categorization	Proposed (New) categorization
Red	85	60
Orange	73	83
Green	86	63
White	---	36
Total	244	242

- vii. In the proposed categorization, some of the industrial sectors have been either deleted due to duplication or merged with similar type of sectors on account of same



characteristics of pollution generation. In a similar way, some of the industrial sectors are split into more sectors on account of variation in the raw materials / manufacturing process. As a result final totals of the existing and proposed categorization are different.

- viii. The industrial sector which doesn't fall under any of the above four categories (Red, Orange, Green and White) , decision with regard to its categorization will be taken at the level of concerned SPCB/PCC by a committee headed by the Member Secretary , SPCB/PCC and comprising of two senior cadre Engineers / Scientists of the SPCB / PCC in accordance with the scoring-criteria specified in this document.
- ix. The summary is presented in the following Table G-1 and final lists of Red, Orange, Green and White categories of industries are presented in Tables G-2, G-3, G-4 and G-5 respectively, which are self explanatory.



Table G-1: Final Summary Table Red , Orange, Green and White Categories of Industries (16-01-16)

Sl No.	Original Categorization	Initial Nos.	Addition by Splitting into further classes	Deletion/ Shifting to foot-note due to vague term / Merger / other reasons	Re-categorization to Red	Re-categorization to Orange	Re-categorization to Green	Re-categorization to White	Check
					1	2	3	4	
									(1+2) = (3 to 7)
1	Red	85	11	7	60	26	3	Nil	96=96
2	Orange	73	2	3	Nil	51	19	2	75=75
3	Green	86	Nil	3+2=5	Nil	6	41	34	86=86
Final Categorization		244	13	15	60 (Red)	83 (Orange)	63 (Green)	36 (White)	257 =257 (Total categories including in foot-note)



Table G-2 : Final List of Red Category of Industrial Sectors

Sl No.	Orgnl Sl.No	Industry Sector	W1	W2	W	A1	A2	A	H	W+A+H	Revised Category	REMARKS
1.	38	Isolated storage of hazardous chemicals (as per schedule of manufacturing, storage of hazardous chemicals rules ,1989 as amended)									R-R	As per provisions of Rules, to be kept under Red category especially for safety purposes.
2.	4	Automobile Manufacturing (integrated facilities)	30	-	30	20	-	20	10	60	R-R	i. Such types of plants are having either one or combinations of polluting activities viz. washing, metal surface finishing operations, pickling, plating, electro-plating , phosphating, painting , heat treatment etc. ii. Some of such plants may outsource some /all of the polluting activities. In such cases, after thorough inspection of such units by concerned SPCB, re-categorization of the industry shall be made accordingly.
3.	34	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Spent cleared metal catalyst containing copper,, Spent cleared metal catalyst containing zinc,,	30	-	30	20	-	20	10	60	R-R	All the three types of pollutants are expected.
4.	44	Manufacturing of lubricating oils ,grease and petroleum based products	20	-	20	20	-	20	20	60	R-R	Generates all sorts of pollution.
5.	66 E	DG Set of capacity > 5 MVA	-	-	-	20	5	25	-	62.5	R-R	i. Mainly air polluting. ii. DG sets consume the diesel @ 0.21 litres/hr/KVA at full load. iii. Average running is taken @ 12 hrs / day although many of the DG sets run for more than this period.
6.	31	Industrial carbon including electrodes and graphite blocks, activated carbon, carbon black	10	-	-	20	5	25	10	62.5	R-R	Mainly air polluting. Air pollution score is normalized to 100.

7.	39	Lead acid battery manufacturing(excluding assembling and charging of lead-acid battery in micro scale)	10	-	10	25	-	25	10	62.5	R-R	<p>i. Mainly air polluting. Air pollution scores are normalized to 100.</p> <p>ii. Lead Acid Battery manufacturing consists of various stages which broadly involve (after producing or receiving lead oxide): Paste Mixing , Grid Casting , Grid Pasting & Curing , Hydro-setting, parting & enveloping , Stacking, grouping & inter-cell welding ,Formation.</p> <p>iii. Exposure of workmen to lead during all or any of the processes outlined above exceeds the prescribed standards if appropriate equipment in this respect is not installed at any Battery Manufacturing Unit.</p> <p>iv. All of the above processes, some more than others, involve release of lead particles or fumes into the environment. Pollution from the above processes can be grouped into two possible types, viz: (a) Lead Oxide becomes airborne and there is Particulate Pollution (b) Fumes are generated and there is Gaseous Pollution</p>
8.	62	Phosphate rock processing plant	30	-	30	20	-	20	-	62.5	R-R	<p>i. The separation of phosphate rock from impurities and non-phosphate materials for use in fertilizer manufacture consists of beneficiation, drying or calcining at some operations, and grinding. Phosphate rock from the mines is first sent to beneficiation units to separate sand and clay and to remove impurities. Steps used in beneficiation depend on the type of rock.</p> <p>ii. The water & air pollution scores are normalized to 100.</p>

9.	66	Power generation plant [except Wind and Solar renewable power plants of all capacities and Mini Hydel power plant of capacity <25MW]	10	-	10	15	10	25		62.5	R-R	1. Mainly air polluting. It uses a mixture of biomass (agro based) and coal (< 10 %) as a fuel. Almost, round the year operation. 2. In case of DG sets of 5 MVA & more and emissions of SO2 will take place due to use of liquid fuel. Air pollution score will be =20 + 10 = 30, Normalized score will be 75. 3. In case of 'Waste to Energy Plants' , water will be used for cooling and air score will be - 30+10 = 40.
10.	34	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Spent catalyst containing nickel, cadmium, Zinc, copper, arsenic, vanadium and cobalt,	30	-	30	25	-	25	10	65	R-R	All the three types of pollutants are expected.
11.	67	Processes involving chlorinated hydrocarbons	30	-	30	20	-	20	15	65	R-R	Chlorinated hydrocarbons are used in the manufacture of insecticides, pesticides and organo chloro pesticides. Effluents & emissions are toxic in nature.
12.	74	Sugar (excluding Khandsari)	20	10	30	15	10	25	10	65	R-R	i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Sugar mills generate all sorts of pollution problems.
13.	22	Fibre glass production and processing (excluding moulding)	-	-	-	20	-	20	20	67	R-R	i. The use of styrene in most methods of fiberglass production causes hazardous air pollution that is harmful to breathe at excessive levels. ii. It is mainly air polluting & HW generating industry. The air pollution & HW scores are normalized to 100. iii. In case of lead containing glass, the score of A1 will be 25 and final normalized score will be 75 and shall be categorized as Red.
14.	23	Fire crackers manufacturing and bulk storage facilities	-	-	-	20	-	20	20	67	R-R	i. This is the normalized score based on air pollution & HW generation. ii. Various hazardous chemicals are used in the manufacturing process. iii. These chemicals are namely Potassium Nitrate , Potassium per-chlorate, Barium Nitrate, Aluminium compounds, Copper Chloride etc.

												iv. These chemicals are highly hazardous and cause serious diseases among the workers. especially ability of blood to carry oxygen leading to headaches, methemoglobinemia and kidney problems , skin problems, thyroid metal fume etc.
15.	34	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Dismantlers Recycling Plants -- Components of waste electrical and electronic assembles comprising accumulators and other batteries included on list A, mercury-switches, activated glass cullets from cathode-ray tubes and other activated glass and PCB-capacitors, or any other component contaminated with Schedule 2 constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they exhibit hazard characteristics indicated in part C of this Schedule.	-	-	-	30	0	30	10	67	R-R	Mainly air polluting and hazardous waste generating. Air & HW pollution scores are jointly normalized to 100.
16.	47	Milk processes and dairy products(integrated project)	20	10	30	20	5	25	-	68.75	R-R	i. Water as well as air polluting due to use of boilers. ii. Water & air pollution scores are normalized to 100.
17.	63	Phosphorous and its compounds	30	-	30	25	-	25	-	68.75	R-R	Water pollution & air pollution containing compounds of phosphorous are expected
18.	61	Pulp & Paper (waste paper based without bleaching process to manufacture Kraft paper)	20	10	30	15	10	25	0	68.75	R-R	Mainly water & air polluting . Water & air pollution scores are normalized to 100.
19.	13	Coke making , liquefaction, coal tar distillation or fuel gas making	30	-	30	20	-	20	20	70	R-R	It is a kind of petrochemical industry.



20.	41	Manufacturing of explosives, detonators, fuses including management and handling activities	30	-	30	20	-	20	20	70	R-R	<ul style="list-style-type: none"> i. Explosives manufacture and use contribute some measure of hazardous waste to the environment. ii. Nitroglycerin produces several toxic byproducts such as acids, caustics, and oils contaminated with heavy metals. These must be disposed of properly by neutralization or stabilization and transported to a hazardous waste landfill. iii. The use of explosives creates large amounts of dust and particulate from the explosion, and, in some cases, releases asbestos, lead, and other hazardous materials into the atmosphere.
21.	45	Manufacturing of paints varnishes, pigments and intermediate (excluding blending/mixing)	30	-	30	25	-	25	15	70	R-R	<ul style="list-style-type: none"> i. The process may cause considerable emissions of volatile organic compounds (VOC). VOC contribute to the creation of ozone in the lower layers of the atmosphere (photochemical air pollution) and can present danger to health. ii. Dust and odour may also be a problem. iii. Washing of vessels will contribute waste-waters. iv. Large quantity of HWs are also produced.
22.	56	Organic Chemicals manufacturing	30	-	30	20	-	50	20	70	R-R	Such types of industrial sectors generate all sorts of pollution.
23.	1	Airports and Commercial Air Strips	20	10	30	-	-	-	10	75	R-R	<ul style="list-style-type: none"> i. The Airports are generating mainly the waste-waters. ii. This is the water pollution normalized score for airports having discharge more than 100 KLD. iii. The airports / strips having discharge less than 100 KLD will have score of 50 and hence orange category. iv. If the score is normalized wrt water + HW both, then all the airports will come under Orange category (score - 58.33).
24.	3	Asbestos and asbestos based industries	-	-	-	30	-	30	10	75	R-R	<ul style="list-style-type: none"> i. This is mainly air polluting industry. ii. Final score is based on air pollution score only. iii. Asbestos is carcinogenic and banned in many countries.
25.	5	Basic chemicals and electro chemicals and its derivatives including manufacturing of acid	30	-	30	-	-	-	10	75	R-R	<ul style="list-style-type: none"> i. Standards prescribed for Inorganic Chemicals are adopted. ii. It is mainly water polluting industry having effluents which are toxic and not easily biodegradable.



												<p>iii. Water pollution score normalized to 100 is undertaken.</p> <p>iv. The earlier Red category industrial sector namely "Hydrocyanic acid and its derivatives" is also merged under this industrial sector.</p>
26.	7	Cement	-	-	-	20	10	30	-	75	R-R	This is mainly air polluting industry & hence normalized air pollution score.
27.	9	Chlorates, per-chlorates & peroxides	30	-	30	-	-	-	-	75	R-R	<p>i. It is mainly water polluting industry having effluents which are toxic and not easily biodegradable.</p> <p>ii. Water pollution score normalized to 100 is undertaken.</p>
28.	10	Chlorine, fluorine, bromine, iodine and their compounds	30	-	30	-	-	-	-	75	R-R	<p>i. It is mainly water polluting industry having effluents which are toxic and not easily biodegradable.</p> <p>ii. Water pollution score normalized to 100 is undertaken.</p>
29.	16	Dyes and Dye- Intermediates	30	-	30	20	5	25	20	75	R-R	<p>i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'.</p> <p>ii. Such types of industrial sectors generate all sorts of pollution.</p>
30.	26	Health-care Establishment (as defined in BMW Rules)	20	10	30	-	-	-	-	75	R-R	<p>i. Mainly water polluting.</p> <p>ii. The water pollution score is normalized to 100 & valid for Hospitals having total waste-water generation > 100 KLD.</p> <p>iii. The hospitals with incinerator will be categorized as Red irrespective of the quantity of the waste-water generation.</p> <p>iv. The hospitals having total waste-water generation less than 100 KLD and without incinerator, the normalized water pollution score will be 50 and will be categorized as Orange category.</p>
31.	29	Hotels having overall waste-water generation @ 100 KLD and more.	20	10	30	15	-	15	-	75	R-R	<p>i. Mainly water polluting. Small boiler may be installed.</p> <p>ii. The water pollution score is normalized to 100 & valid for Hotels having waste-water generation > 100 KLD.</p> <p>iii. The hotels having more than 20 rooms and waste-water generation less than 100 KLD and having a coal / oil fired boiler , the pollution score will be 35/40 & are categorized as Orange.</p> <p>iv. The hotels having more than 20 rooms and waste-water generation less than 10 KLD and</p>



												having no-boiler & no hazardous waste generation, the pollution score will be 20 & are categorized as Green.
32.	34	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Lead acid battery plates and other lead scrap/ashes/residues not covered under Batteries (Management and Handling) Rules, 2001. [* Battery scrap, namely: Lead battery plates covered by ISRI, Code word "Rails" Battery lugs covered by ISRI, Code word "Rakes". Scrap drained/dry while intact, lead batteries covered by ISRI, Code word "rains".	30	-	30	25	--	25	20	75	R-R	All the three types of pollutants are generated.
33.	34	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Integrated Recycling Plants -- Components of waste electrical and electronic assembles comprising accumulators and other batteries included on list A, mercury-switches, activated glass cullets from cathode-ray tubes and other activated glass and PCB-capacitors, or any other component contaminated with Schedule 2 constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they exhibit hazard characteristics indicated in part C of this Schedule.	30	-	30	25	-	25	20	75	R-R	All the three types of pollutants are expected.
34.	43	Manufacturing of glue and gelatin	30	10	40	20	-	20	-	75	R-R	Highly water polluting & obnoxious air polluting.
35.	49	Mining and ore beneficiation	30	10	40	15	5	20	-	75	R-R	Both air and water polluting. Score is normalized with air & water pollution.

36.	52	Nuclear power plant	10	-	10	30	-	30	15	75	R-R	<ul style="list-style-type: none"> i. Mainly air polluting due to incinerator. Others - cooling water. ii. Air pollution score is normalized to 100.
37.	58	Pesticides (technical) (excluding formulation)	30	-	30	25	-	25	20	75	R-R	<ul style="list-style-type: none"> i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Such types of industrial sectors generate all sorts of pollution.
38.	64	Photographic film and its chemicals	30	-	30	-	-	-	-	75	R-R	<ul style="list-style-type: none"> i. Silver salts and other chemicals are used in preparation. Slight quantity of effluents is generated. ii. Water pollution scores are normalized to 100.
39.	68	Railway locomotive workshop/Integrated road transport workshop/Authorized service centers	20	10	30	-	-	-	10	75	R-R	<ul style="list-style-type: none"> i. Mainly water polluting industry. Water is used in the washing of locomotives, road transport vehicles during servicing. ii. This score is valid for those Centers having discharge more than 100 KLD. iii. Service Centers having waste-water generation < 100 KLD, the normalized score will be = (100*20)/40= 50.
40.	84	Yarn / Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring	30	10	40	15	-	15	20	75	R-R	In this sector all sorts of pollution are generated.
41.	8	Chlor Alkali	30	10	40	20	10	30	10	80	R-R	<ul style="list-style-type: none"> i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Chlor-alkali units are having different section like NaOH, Cl₂, SBP etc which are having toxic effluents. Additionally, fuel consumption is also on higher-side.
42.	70	Ship Breaking Industries	30	-	30	30	-	30	20	80	R-R	<ul style="list-style-type: none"> i. The ship-breaking industry creates numerous hazards for the coastal and marine environment. ii. Ship-breaking releases a large number of dangerous pollutants, including toxic waste, oil, poly-chlorinated biphenyls, and heavy metals, into the waters and sea bed. iii. While most of the oil is removed before a ship is scrapped, sand used to mop up the remaining oil is thrown into the sea. High concentrations of oil and grease are then found in the coastal waters, choking marine life.



												iv. Solid waste strewn on the shore, 45 tonnes on any given day according to a study by the Central Pollution Control Board, also finds its way into the sea. v. Adding to the stress on coastal waters, the organic load from the thousands of workers living in cramped conditions with little or no sanitary facilities results in unacceptably high levels of BOD.
43.	53	Oil and gas extraction including CBM (offshore & on-shore extraction through drilling wells)	30	-	30	-	-	-	20	83	R-R	i. Mainly water polluting & hazardous waste generating. ii. The water pollution & HW generation scores are normalized to 100.
44.	36	Industry or process involving metal surface treatment or process such as pickling/ electroplating/paint stripping/ heat treatment using cyanide bath/ phosphating or finishing and anodizing / enamellings/ galvanizing	30	-	30	-	-	-	20	83	R-R	Mainly water polluting & toxic hazardous waste generating industry. Scores are normalized to 100.
45.	80	Tanneries	30	-	30	-	-	-	20	83	R-R	Mainly water polluting & hazardous waste generating industry. Scores are normalized to 100.
46.	65	Ports and harbour, jetties and dredging operations	30	10	40	15	10	25	20	85	R-R	This category contain all sorts of pollution.
47.	77	Synthetic fibers including rayon ,tyre cord, polyester filament yarn	30	10	40	25	10	35	10	85	R-R	This sector generates all sorts of pollution problems.
48.	81	Thermal Power Plants	30	10	40	20	10	30	15	85	R-R	i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. TPP generate all sorts of pollution problems.
49.	71	Slaughter house (as per notification S.O.270(E)dated 26.03.2001)and meat processing industries, bone mill, processing of animal horn, hoofs and other body parts	25	10	35	-	-	-	-	87.5	R-R	Mainly water polluting and obnoxious odour generating industry. The water pollution score is normalized to 100
50.	2	Aluminium Smelter	30	10	40	20	10	30	20	90	R-R	i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. This sector is generating all sorts of pollution i.e. air, water and HW.
51.	12	Copper Smelter	30	10	40	20	10	30	20	90	R-R	i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Integrated Copper Smelters contain all sorts of



													pollution.
52.	20	Fertilizer (basic) (excluding formulation)	30	10	40	20	10	30	20	90	R-R		i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Generates all sorts of pollution.
53.	37	Iron & Steel (involving processing from ore/ integrated steel plants) and or Sponge Iron units	30	10	40	20	10	30	20	90	R-R		i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Such types of industrial sectors generate all sorts of pollution.
54.	61	Pulp & Paper (waste paper based units with bleaching process to manufacture writing & printing paper)	25	10	35	25	10	35	20	90	R-R		Waste paper based Pulp & Paper mills with bleaching process generate all sorts of pollution.
55.	85	Zinc Smelter	30	10	40	20	10	30	20	90	R-R		i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Integrated Zinc smelter generates all sorts of pollution problems.
56.	55	Oil Refinery (mineral Oil or Petro Refineries)	30	10	40	25	10	35	20	95	R-R		i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Such types of industrial sectors generate all sorts of pollution.
57.	59	Petrochemicals Manufacturing (including processing of Emulsions of oil and water)	30	10	40	25	10	35	20	95	R-R		i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Such types of industrial sectors generate all sorts of pollution. iii. The earlier red category industrial sector namely "Processing of Emulsions of Oil & Water " is merged with this industrial sector.
58.	60	Pharmaceuticals	30	10	40	30	5	35	20	95	R-R		i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Such types of industrial sectors generate all sorts of pollution.
59.	61	Pulp & Paper (Large-Agro + wood) , Small Pulp & Paper (agro based-wheat straw/rice husk)	30	10	40	25	10	35	20	95	R-R		i. This industrial sector is the one among the '17 categories of Highly Polluting Industries'. ii. Large /Small Agro based Pulp & Paper mills contribute all sorts of pollution problems.
60.	15	Distillery (molasses / grain / yeast based)	30	10	40	-	-	-	-	100	R-R		Mainly water polluting industry. Final score is the normalized water pollution score.

Note :

- i. Under the column Revised Category, the full forms of the abbreviations are as follows :
- R-R means original category was Red and revised category is also Red
 - R-O means original category was Red and revised category is Orange
 - O-O means original category was Orange and revised category is also Orange
 - O-G means original category was Orange and revised category is Green
 - O-W means original category was Orange and revised category is White
 - G-O means original category was Green and revised category is Orange
 - G-G means original category was Green and revised category is also Green
 - G-W means original category was Green and revised category is White
- ii. There are specific remarks in respect of some of the industrial sectors. These sectors are either merged with other relevant sectors or deleted due to duplication. The overall details are as follows :

Sl No.	Original Sl No.	Industry Sector	Original Category	Remarks
1	14	Common treatment and disposal facilities (CETP, TSDF, E-waste recycling, CBMWTF, effluent conveyance project, incinerator, solvent/acid recovery plant, MSW sanitary land fill site)	R	i. All such facilities are classified as Red but special category projects as these are parts of pollution control facilities. ii. In case of CETP, the categorization will depend upon the category of member industries being served.
2	18	Processing of Emulsions of Oil & Water		It is a part of Petrochemical industries. Transferred and merged with the industrial sector namely 'Petrochemicals' at Sl. No. 54.
3	27	Heavy engineering including ship building (with investment on Plant & Machineries more than Rs 10 crores)	R	Most of the pollution generating processes / operations under this category are similar to the industry category namely "Automobile Manufacturing (integrated facilities)" at Sl. No. 1 and may be referred accordingly.
4	30	Hydrocyanic acid and its derivatives	R	Have been merged with the red category industrial sector namely "Basic chemicals and electro chemicals and its derivatives including manufacturing of acid" at Sl. No. 24
5	32	Industrial estates/ parks / complexes/ areas/ export processing zones/ SEZs/ Biotech parks/ leather complex	R	The classification will depend upon the category(ies) of the industries operating / proposed to be permitted in the area. In this context, guidelines prescribed in EIA Notification, 2006 shall be followed.
6	33	Industrial inorganic gases namely- a) Chemical gas- Acetylene, hydrogen, chlorine, fluorine, ammonia, sulphur dioxide, ethylene, hydrogen-sulphide, phosphine b) Hydrocarbon gases- Methane, ethane, propane	R	These gases are generally secondary products and produced alongwith other main products. To be classified as per the main parent plant.
7	69	Reprocessing of used oils & waste oils	R	i. The industry generates mainly the air pollution and oil bearing hazardous wastes. The normalized (air pollution & HW generation score is 58.33. ii. To be deleted as already covered under HW Recyclers / Re-processors (Used oils / Waste Oils) under Orange Category



Table G-3 : Final List of Orange Category of Industrial Sectors

Final Sl. No.	Orgnl S.No	Industry Sector	W1	W2	W	A1	A2	A	H	W+A+H	Revised category	Remarks
1.	20	Dismantling of rolling stocks (wagons/ coaches)	--	--	--	15	--	15	10	41.67	O-O	Emissions of dust and generation of waste oils take place during dismantling. Air pollution & HW generation scores (15+10=25) are normalized to 100.
2.	5	Bakery and confectionery units with production capacity > 1 TPD. (With ovens / furnaces)	20	--	20	15	--	15	--	43.75	O-O	
3.	10	Chanachur and ladoo from puffed and beaten rice(muri and shira) using husk fired oven	20	--	20	15	--	15	--	43.75	O-O	Normal water and air polluting.
4.	23	Coated electrode manufacturing	15	0	15	20	0	20	0	43.75	G-O	Preparation of core wire / rod, preparation of dry mix, preparation of wet mix, application of coating by extrusion, baking of coated electrodes
5.	24	Compact disc computer floppy and cassette manufacturing / Reel manufacturing	15	0	15	20	0	20	0	43.75	G-O	Generates waste-water and process emissions.
6.	24	Flakes from rejected PET bottle	20	-	20	15	-	15	-	43.75	R-O	Normal water & air pollutions are generated.
7.	30	Food and food processing including fruits and vegetable processing	20	--	20	15	--	15	--	43.75	O-O	Normal water and air polluting.
8.	40	Jute processing without dyeing	20	--	20	15	--	15	--	43.75	O-O	CPCB has notified standards for this category. Both air and water pollutions are generated.
9.	56	Manufacturing of silica gel	15	0	15	20	0	20	0	43.75	G-O	Waste-waters containing TDS and emissions of H ₂ SO ₄ are generated.



10.	45	Manufacturing of tooth powder, toothpaste, talcum powder and other cosmetic items	20	--	20	15	--	15	--	43.75	O-O	Both air and water pollution are generated.
11.	55	Printing or etching of glass sheet using hydrofluoric acid	15	--	15	20	--	20	--	43.75	O-O	Both air and water pollution are generated.
12.	65	Silk screen printing, sari printing by wooden blocks	20	--	20	15	--	15	--	43.75	O-O	Wash-water and PM emissions from boilers .
13.	76	Synthetic detergents and soaps(excluding formulation)	20	-	20	15	-	15	-	43.75	R-O	i. This is the score for units having generation of waste-waters less than 100 KLD. ii. The units having waste-water generation more than 100 KLD will become mainly water polluting and accordingly normalized water pollution score will be 75 and be categorized as Red.
14.	71	Thermometer manufacturing	15	--	15	20	--	20	--	43.75	O-O	Process - making glass bulb, forming reservoir in the glass tube for fluid, inserting fluid, scale marking. Use of fuel to heat the glass tubes and hydrofluoric acid to seal the scaling. Small quantities of spent acids are generated.
15.	14	Cotton spinning and weaving (medium and large scale)	--	--	--	15	--	37.5	10	47.5	O-O	Mainly air polluting industry. Sources of air pollution (PM) are the fine particles of cotton from spinning process. Air pollution score is normalized to 100.
16.	1	Almirah, Grill Manufacturing (Dry Mechanical Process)	--	--	--	20	--	20	--	50	O-O	Air pollution due to spray painting (emissions of VOCs). Units without painting operations shall be categorized as White.



17.	2	Aluminium & copper extraction from scrap using oil fired furnace (dry process only)	--	--	--	20	--	20	10	50	O-O	i. Normalized Air pollution score. ii. Significant air pollution due to melting (emissions of SO ₂ , PM).
18.	3	Automobile servicing, repairing and painting (excluding only fuel dispensing)	20	--	20	20	--	20	10	50	O-O	Normal water & air polluting and recyclable waste oil generating. If the waste water generation is more than 100 KLD, it will become mainly water polluting and Red category unit.
19.	4	Ayurvedic and homeopathic medicine	20	--	20	15	--	15	15	50	O-O	
20.	7	Brickfields (excluding fly ash brick manufacturing using lime process)	--	--	--	20	--	20	--	50	O-O	Significantly air polluting.
21.	8	Building and construction project more than 20,000 sq. m built up area	20	--	20	20	--	20	--	50	O-O	1. In the pre-construction stage , it is mainly air polluting due to generation of dust (PM) emissions. 2. After construction, it is mainly water polluting. If the discharge is more than 100 KLD, it will be having the normalized score of 75 and be categorized as Red.
22.	6	Ceramics and Refractories	-	-	-	20	-	20	-	50	R-O	i. Mainly air polluting industry. ii. This score is for the units having coal consumption < than 12 MT/day. iii. For the units having coal consumption > 12 MT /day, the normalized air pollution score will be 62.5 and shall be categorized as Red.



23.	11	Coal washeries	15	10	25	15	-	15	-	50	R-O	<p>i. Wet washeries are mainly water polluting industry generating effluents which are having inorganic SS & TDS. Additionally, air pollution due to PM emissions is also generated.</p> <p>ii. Water & air pollution scores are jointly normalized to 100.</p>
24.	16	Dairy and dairy products (small scale)	20	--	20	20	--	20	--	50	O-O	Water and air polluting both.
25.	18	DG set of capacity >1MVA but < 5MVA	--	--	--	20	--	20	--	50	O-O	Mainly air polluting . air pollution score is normalized to 100.
26.	17	Dry coal processing, mineral processing, industries involving ore sintering, pelletising, grinding & pulverization	-	-	-	20	-	20	-	50	R-O	Mainly air polluting industry. Final score is the normalized air pollution score.
27.	19	Fermentation industry including manufacture of yeast, beer, distillation of alcohol (Extra Neutral Alcohol)	20	-	20	-	-	-	-	50	R-O	<p>i. Mainly water polluting industry. This is the normalized water pollution score for units having discharge < 100 KLD.</p> <p>ii. For the units having discharge > 100 KLD, the normalized water pollution score will be 75 and shall be accordingly categorized as Red.</p>
28.	21	Ferrous and Non-ferrous metal extraction involving different furnaces through melting, refining, re-processing, casting and alloy-making	-	-	-	15	5	20	10	50	R-O	<p>i. Mainly air polluting.</p> <p>ii. This score is applicable to secondary production of ferrous & non-ferrous metals (excluding lead) up-to 1 MT/hour production.</p>



												<p>iii. For lead, the normalized air pollution score will be = $(100 \times 25) / 40 = 62.5$ and is categorized as Red.</p> <p>iv. For Induction Furnace clubbed with AOD furnace - separate calculation shall be made based on the capacity of the furnaces. In such industries, the molten metal from induction furnace is transferred to AOD furnace where other metals like manganese and nickel are added to get the metal of desired constituents. The lime and silicon are also added for reduction of the metal oxides to the base metal. the normalized air pollution score will be = $(100 \times 25) / 40 = 62.5$ and is categorized as Red.</p>
29.	26	Fertilizer (granulation / formulation / blending only)	--	--	--	20	--	20	--	50	O-O	Air polluting.
30.	27	Fish feed, poultry feed and cattle feed	--	--	--	20	--	20	--	50	O-O	Obnoxious odour , H2S etc. AP score is normalized to 100
31.	28	Fish processing and packing (excluding chilling of fishes)	20	--	20	--	--	--	--	50	O-O	Mainly water polluting. WP score is normalized to 100.



32.	31	Forging of ferrous and non- ferrous metals (using oil and gas fired furnaces)	--	--	--	20	--	20	--	50	O-O	Heating furnace. Mainly air polluting.
33.	32	Formulation/pelletization of camphor tablets, naphthalene balls from camphor/ naphthalene powders.	--	--	--	20	--	20	--	50	O-O	Mainly air polluting. Emissions of Benzene, HC are expected.
34.	33	Glass ceramics, earthen potteries and tile manufacturing using oil and gas fired kilns, coating on glasses using cerium fluorides and magnesium fluoride etc.	--	--	--	20	--	20	--	50	O-O	Mainly air polluting. Emissions of SO2 are expected.
35.	35	Gravure printing, digital printing on flex, vinyl	20	--	20	20	--	20	10	50	O-O	Waste waters , emissions of VOCs
36.	36	Heat treatment using oil fired furnace (without cyaniding)	--	--	--	20	--	20	--	50	O-O	Mainly air polluting and noise generating. AP Score is normalized to 100.
37.	28	Hot mix plants	-	-	-	20	-	20	-	50	R-O	Mainly air polluting. Air pollution scores are normalized to 100.
38.	37	Hotels (< 3 star) or hotels having > 20 rooms and less than 100 rooms.	20	--	20	20	--	20	--	50	O-O	Mainly water polluting. WP score is normalized to 100.
39.	38	Ice cream	20	--	20	20	--	20	--	50	O-O	Wash-water and boilers / oven for pasteurization.
40.	34	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Paint and ink Sludge/residues	-	-	-	20	0	20	0	50	R-O	Mainly air polluting. Air pollution score is normalized to 100
41.	34	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Brass Dross ,, Copper Dross,, Copper Oxide Mill Scale,, Copper Reverts, Cake & Residues,, Waste Copper and copper alloys in	10	-	10	20	-	20	10	50	R-O	Mainly air polluting.



		dispersible form,, Slags from copper processing for further processing or refining ,, Insulated Copper Wire,, Scrap/copper with PVC sheathing including ISRI-code material namely "Druid" ,, Jelly filled Copper cables ,, Zinc Dross-Hot dip Galvanizers SLAB,, Zinc Dross-Bottom Dross,, Zinc ash/Skimming arising from galvanizing and die casting operations,, Zinc ash/Skimming/other zinc bearing wastes arising from smelting and refining,, Zinc ash and residues including zinc alloy residues in dispersible from,,										
42.	35	Industry or processes involving foundry operations	-	-	-	20	-	20	-	50	R-O	<p>i. This score is valid for the foundries having capacity < 5 MT/hr as such units require the coal/coke @ < 500 kg/hr.</p> <p>ii. The units having capacity of 5 MT/hr and more, the coal/coke consumption will be more than 500 kg/hr and the normalized score will be 62.5 and classified accordingly as Red.</p>
43.	40	Lime manufacturing (using lime kiln)	-	-	-	20	-	20	-	50	R-O	Mainly air polluting
44.	41	Liquid floor cleaner, black phenyl, liquid soap, glycerol mono-stearate manufacturing	20	--	20	20	--	20	--	50	O-O	Both air and water pollution are generated.



45.	42	Manufacturing of glass	10	-	-	20	-	20	-	50	R-O	<p>i. Mainly air polluting (melting at 1500°C and refining .</p> <p>ii. In case of lead glass , the score of A1 will be 25 and accordingly the normalized scores will be 62.5 i.e. Red .</p>
46.	43	Manufacturing of iodized salt from crude/ raw salt	12	--	12	20	--	20	--	50	O-O	Boiling in Evaporators (multiple effect evaporators), centrifuging, iodization with KIO3 mixing . Mainly air polluting. Air pollution score is normalized to 100.
47.	42	Manufacturing of mirror from sheet glass	--	--	--	20	--	20	--	50	O-O	Evaporator & furnace for heating the metal to be applied as reflector on mirror. Mainly air polluting.
48.	44	Manufacturing of mosquito repellent coil	--	--	--	20	--	20	--	50	O-O	Mainly air polluting. Toxic fumes are expected.
49.	46	Manufacturing of Starch/Sago	25	-	25	15	-	15	-	50	R-O	<p>i. Water and air polluting industry. Boiler is used for steam generation.</p> <p>ii. Water & air pollution scores are normalized to 100</p>
50.	46	Mechanized laundry using oil fired boiler	20	--	20	20	--	20	--	50	O-O	Both air and water pollution are generated.
51.	47	Modular wooden furniture from particle board, MDF< swan timber etc, Ceiling tiles/ partition board from saw dust, wood chips etc., and other agricultural waste using synthetic adhesive resin, wooden box making (With boiler)	--	--	--	20	--	20	--	50	O-O	1. Mainly air polluting. Boiler as well as VOCs from use of adhesives. 2. Without boiler, it will be a Green category industry.
52.	50	New highway construction project	-	-	-	20	-	20	-	50	R-O	Mainly air polluting project.



53.	51	Non-alcoholic beverages(soft drink) & bottling of alcohol/non alcoholic products	20	-	20	15	5	20	-	50	R-O	i. Both air and water polluting. Score is normalized with air & water pollution. This score is valid for industries having waste-water generation < 100 KLD. ii. For the units having waste-water generation > 100 KLD the , normalized score would be 62.5 and categorized as Red.
54.	49	Paint blending and mixing (Ball mill)	20	--	20	20	--	20	10	50	O-O	Both air and water pollution are generated.
55.	62	Paints and varnishes (mixing and blending)	20	0	0	20	0	20	0	50	G-O	Waste-waters as well as fumes of VOCs due to solvents, pigments, varnishes.
56.	51	Ply-board manufacturing(including Veneer and laminate) with oil fired boiler/ thermic fluid heater(without resin plant)	0	--	0	20	--	20	--	50	O-O	Mainly air polluting because of use of boiler. AP score is normalized to 100
57.	52	Potable alcohol (IMFL) by blending, bottling of alcohol products	20	--	20	--	--	--	--	50	O-O	Mainly water polluting. WP score is normalized to 100.
58.	54	Printing ink manufacturing	20	--	20	20	--	20	--	50	O-O	1. Pigments, binders and solvents are used. 2. Boiler is also used. 3. Emissions of VOCs take place.
59.	70	Printing press	20	0	20	20	0	20	0	50	G-O	Colored waste-waters containing dyes and VOC emissions are generated.
60.	59	Reprocessing of waste plastic including PVC	20	--	20	20	--	20	--	50	O-O	Large quantities of wash-water and fugitive emissions are generated.
61.	61	Rolling mill (oil or coal fired) and cold rolling mill	10	--	10	20	--	20	--	50	O-O	Mainly air polluting. Air pollution score is normalized to 100. Others - cooling water and recyclable waste oils etc. are generated.
62.	67	Spray painting, paint baking, paint shipping	--	--	--	20	--	20	10	50	O-O	Mainly air polluting. Emissions of VOCs and HC are generated.



63.	72	Steel and steel products using various furnaces like blast furnace /open hearth furnace/induction furnace/arc furnace/submerged arc furnace /basic oxygen furnace /hot rolling reheated furnace	10	-	10	20	-	20	10	50	R-O	i. Mainly air polluting. In the emissions, oxides of manganese, nickel etc. are also present. ii. Air pollution score is normalized to 100.
64.	73	Stone crushers	-	-	-	20	-	20	-	50	R-O	Mainly air polluting. Air pollution score is normalized to 100.
65.	75	Surgical and medical products including prophylactics and latex	20	-	20	20	-	20	-	50	R-O	Both air as well as water polluting. Air and water pollution scores are normalized to 100.
66.	85	Tephlon based products	0	0	0	20	0	20	0	50	G-O	Due to spraying applications, emissions (HC) are generated
67.	70	Thermocol manufacturing (with boiler)	--	--	--	20	--	20	--	50	O-O	Polystyrene is heated. Mainly air polluting with boiler.
68.	82	Tobacco products including cigarettes and tobacco/opium processes	20	-	20	20	-	20	-	50	R-O	Such industries generate both air as well as water pollution. These scores are normalized to 100.
69.	72	Transformer repairing/ manufacturing (dry process only)	--	--	--	20	--	20	10	50	O-O	Mainly air polluting because of ovens, shot-blasting etc.
70.	73	Tyres and tubes vulcanization/ hot retreating	10	--	10	20	--	20	--	50	O-O	Mainly air polluting . Emissions of PM, VOCs and obnoxious odour are generated.
71.	83	Vegetable oil manufacturing including solvent extraction and refinery /hydrogenated oils	20	-	20	15	5	20	10	50	R-O	i. All sorts of pollution are generated. ii. This score is valid for plants having waste-water generation < 100 KLD. iii. If the waste-water generation is more than 100 KLD, the unit shall be classified as Red.
72.	74	Wire drawing and wire netting	20	--	20	--	--	--	--	50	O-O	Mainly water polluting. WP score is normalized to 100.

73.	21	Dry cell battery (excluding manufacturing of electrodes) and assembling & charging of a lead battery on micro scale	30	--	30	15	--	15	10	55	O-O	Water and air polluting both.
74.	50	Pharmaceutical formulation and for R & D purpose (For sustained release/ extended release of drugs only and not for commercial purpose)	20	--	20	20	--	20	15	55	O-O	i. All sorts of pollution are generated. ii. R&D activities are to be shifted to Red category.
75.	78	Synthetic resins	20	-	20	20	-	20	15	55	R-O	All sorts of pollution are generated.
76.	79	Synthetic rubber excluding molding	20	-	20	20	-	20	15	55	R-O	i. Most synthetic rubber is created from two materials, styrene and butadiene. Both are currently obtained from petroleum. ii. Process is similar to a part of Petrochemical plants.
77.	9	Cashew nut processing	25	--	25	20	--	20	--	56	O-O	Normal water and air polluting.
78.	12	Coffee seed processing	25	--	25	20	--	20	--	56	O-O	Normal water & air polluting industry.
79.	57	Parboiled Rice Mills	25	-	25	20	-	20	-	56	R-O	i. Rice Mills are generating both air and water pollution. Waste-waters are having high strength in respect of BOD. ii. This is the normalized air & water pollution score for units having waste-water generation < 100 KLD and fuel consumption less than 12 MTD. iii. For units having waste-water generation > 100 KLD or fuel consumption > 12 MTD or both , the unit shall be classified as Red.

80.	29	Foam manufacturing	--	--	--	20	--	20	15	58	O-O	i. Raw material is polyurethane, latex etc. ii. Emissions of VOCs and HAPs. CH ₃ Cl ₂ and similar compounds as blowing agents. iii. Outdated raw materials and spoiled slots are discarded as HW.
81.	34	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Used Oil – As per specifications prescribed from time to time.	10	0	10	20	0	20	15	58.33	R-O	Mainly air polluting and hazardous waste generating industry. Air pollution & HW scores are normalized to 100
82.	34	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Waste Oil ---As per specifications prescribed from time to time.	-	-	-	20	0	20	15	58.33	R-O	Mainly air polluting and hazardous waste generating industry. Air pollution & HW scores are normalized to 100.
83.	56	Producer gas plant using conventional up drift coal gasification (linked to rolling mills glass and ceramic industry refractories for dedicated fuel supply)	--	--	--	20	--	20	15	58.33	O-O	Mainly air polluting & tar (HW) generating. SO ₂ , CO, NO _x are generated. Tar is the by-product and utilized by other industries in co-processing.

Note :

- i. Under the column Revised Category, the full forms of the abbreviations are as follows :
- R-R means original category was Red and revised category is also Red
 - R-O means original category was Red and revised category is Orange
 - O-O means original category was Orange and revised category is also Orange
 - O-G means original category was Orange and revised category is Green
 - O-W means original category was Orange and revised category is White
 - G-O means original category was Green and revised category is Orange
 - G-G means original category was Green and revised category is also Green
 - G-W means original category was Green and revised category is White



ii. There are specific remarks in respect of some of the industrial sectors. These sectors are either merged with other relevant sectors or deleted due to duplication / vague category. The overall details are as follows:

<i>Sl No .</i>	<i>Origin al Sl No.</i>	<i>Industry Sector</i>	<i>Original Categor y</i>	<i>Remarks</i>
1	24	<i>Excavation of sand from the river bed (excluding manual excavation)</i>	0	<i>Since such types of activities cause ecological disturbances, the instructions issued by the government from time to time be followed. To be categorized by MoEF&CC.</i>
2	39	<i>Infrastructure Development Project</i>	0	<i>Vast variety of such projects come under such category. This is to be decided by the concerned SPCB in line of EIA Notification , 2006.</i>
3	53	<i>Power press</i>	0	<i>Very vague term hence deleted. Such types of general engineering units have already been covered.</i>



Table G-4 : Final List of Green Category of Industrial Sectors

Sl. No.	Orgnl Sl. No.	Industry Sector	W1	W2	W	A1	A2	A	H	W+A+H	Revised Category	Remarks
1.	2	Aluminium utensils from aluminium circles by pressing only (dry mechanical operation)	--	--	--	10	--	10	--	25	G-G	Minor air pollution due to some fugitive PM emissions from buffing operations.
2.	6	Ayurvedic and homeopathic medicines (without boiler)	10	--	10	--	--	--	--	25	G-G	Small quantities of waste-waters are generated from washing operations.
3.	8	Bakery /confectionery /sweets products (with production capacity <1tpd (with gas or electrical oven)	10	--	10	--	--	--	--	25	G-G	Small quantities of waste-waters are generated from washing operations.
4.	6	Bi-axially oriented PP film along with metalizing operations	10	--	10	--	--	--	--	25	O-G	Mainly extrusion process involving Cooling water recirculation
5.	10	Biomass briquettes (sun drying) without using toxic hazardous wastes	--	--	--	10	--	10	--	25	G-G	Minor air pollution due to some fugitive PM emissions from pulverization / mixing operations.
6.	13	Blending of melamine resins & different powder, additives by physical mixing	--	--	--	10	--	10	--	25	G-G	Minor air pollution due to some fugitive PM emissions from pulverization / mixing operations.
7.	15	Brass and bell metal utensils manufacturing from circles(dry mechanical operation without re-rolling facility)	--	--	--	10	--	10	--	25	G-G	Minor air pollution due to some fugitive PM emissions from buffing operations.
8.	16	Candy	10	--	10	10	--	10	--	25	G-G	Small quantities of waste-water and minor



												PM emissions are generated.
9.	17	Cardboard or corrugated box and paper products (excluding paper or pulp manufacturing and without using boilers)	--	--	--	10	--	10	--	25	G-G	This score is valid with Small gas / electricity operated oven / furnace for making glue.
10.	18	Carpentry & wooden furniture manufacturing (excluding saw mill) with the help of electrical (motorized) machines such as electrical wood planner, steel saw cutting circular blade, etc.	--	--	--	10	--	10	--	25	G-G	Minor air pollution due to some fugitive PM emissions from cutting operations.
11.	19	Cement products (without using asbestos / boiler / steam curing) like pipe ,pillar, jafri, well ring, block/tiles etc.(should be done in closed covered shed to control fugitive emissions)	--	--	--	10	--	10	--	25	G-G	Minor air pollution due to some fugitive PM emissions from mixing operations.
12.	20	Ceramic colour manufacturing by mixing & blending only (not using boiler and wastewater recycling process)	--	--	--	10	--	10	--	25	G-G	Minor air pollution due to some fugitive PM emissions.
13.	11	Chilling plant, cold storage and ice making	10	--	10	--	--	--	--	25	O-G	Cooling water recirculation only.
14.	13	Coke briquetting (sun drying)	--	--	--	10	--	10	--	25	O-G	Mainly air polluting industry. Sources of air pollution (PM) are pulverizes and mixers. Air pollution score is normalized to 100.
15.	28	Cotton spinning and weaving (small scale)	--	--	--	10	--	10	--	25	G-G	Minor PM emissions from spinning process.
16.	17	Dal Mills	--	--	--	10	--	10	--	25	O-G	Some fugitive emissions of PM.

17.	29	Decoration of ceramic cups and plates by electric furnace	--	--	--	10	--	10	--	25	G-G	Fumes of enamels. Minor air pollution.
18.	19	Digital printing on PVC clothes	--	--	--	10	--	10	--	25	O-G	Minor emissions / odour generations are expected.
19.	25	Facility of handling, storage and transportation of food grains in bulk	--	--	--	10	--	10	--	25	O-G	Some fugitive emissions of PM during handling of grains.
20.	36	Flour mills (dry process)	--	--	--	10	--	10	--	25	G-G	Fugitive dust emissions.
21.	41	Glass , ceramic, earthen potteries, tile and tile manufacturing using electrical kiln or not involving fossil fuel kiln	--	--	--	10	--	10	--	25	G-G	Minor fugitive emissions only.
22.	34	Glue from starch (physical mixing) with gas / electrically operated oven /boiler.	--	--	--	10	--	10	--	25	O-G	Some fugitive emissions of PM during mixing of raw materials.
23.	42	Gold and silver smithy (purification with acid smelting operation and sulphuric acid polishing operation) (using less or equal to 1 litre of sulphuric acid/ nitric acid per month)	--	--	--	10	--	10	--	25	G-G	Minor fumes from cleaning process.
24.	36	Heat treatment with any of the new technology like ultrasound probe , induction hardening , ionization beam, gas carburizing etc.	10	--	10	10	--	10	--	25	O-G	<ul style="list-style-type: none"> • Cooling waters and minor heat fumes. • Finalization of categorization subject to field verification.
25.	46	Insulation and other coated papers (excluding paper or pipe manufacturing)	--	--	--	10	--	10	--	25	G-G	Minor fumes due to application of poly-urethane
26.	49	Leather foot wear and leather products (excluding tanning and hide processing except cottage scale)	--	--	--	10	--	10	--	25	G-G	Minor fumes due to use of adhesives / gums.



27.	50	Lubricating oil, greases or petroleum based products (only blending at normal temperature)	--	--	--	10	--	10	--	25	G-G	Minor fumes at the time of transfers from one container to other.
28.	54	Manufacturing of pasted veneers using gas fired boiler or thermic fluid heater and by sun drying	--	--	--	10	--	10	--	25	G-G	1. Minor fumes due to application of gums / adhesives / pastes etc. 2. This score is valid only for gas fired boiler. 3. The units having coal fired boilers shall be categorized as Orange.
29.	59	Oil mill Ghani and extraction (no hydrogenation / refining)	10	--	10	--	--	--	--	25	G-G	Small quantities of floor washings & equipments washings are generated.
30.	48	Packing materials manufacturing from non asbestos fibre, vegetable fibre yarn	--	--	--	10	--	10	--	25	O-G	Some fugitive emissions of PM are expected.
31.	65	Phenyl/toilet cleaner formulation and bottling	--	--	--	10	--	10	--	25	G-G	Minor fumes of VOCs in the work zone
32.	67	Polythene and plastic processed products manufacturing (virgin plastic)	10	--	10	10	--	10	--	25	G-G	Cooling water & emissions due to mixing of raw materials.
33.	68	Poultry, Hatchery and Piggery	--	--	--	10	--	10	--	25	G-G	Obnoxious odour containing H ₂ S, CH ₄ etc. and fugitive PM emissions
34.	69	Power looms (without dye and bleaching)	--	--	--	10	--	10	--	25	G-G	Minor emissions of PM.
35.	71	Puffed rice (muri) (using gas or electrical heating system)	--	--	--	10	--	10	--	25	G-G	Minor emissions of PM.
36.	57	Pulverization of bamboo and scrap wood	--	--	--	10	--	10	--	25	O-G	Some fugitive emissions of PM are expected.
37.	72	Ready mix cement concrete	--	--	--	10	--	10	--	25	G-G	PM emissions.
38.	73	Reprocessing of waste cotton	--	--	--	10	--	10	--	25	G-G	PM emissions.
39.	60	Rice mill (Rice hullers only)	--	--	--	10	--	10	--	25	O-G	PM emissions are generated. Mainly air



													polluting. AP score is normalized to 100
40.	62	Rolling mill (gas fired) and cold rolling mill	10	--	10	10	--	10	--	25	O-G		Mainly air polluting. AP score is normalized to 100
41.	75	Rubber goods industry (with gas operated baby boiler)	--	--	--	10	--	10	--	25	G-G		Some PM emissions and obnoxious odour.
42.	63	Saw mills	--	--	--	10	--	10	--	25	O-G		Mainly air polluting. PM and noise are generated.
43.	77	Soap manufacturing (hand made without steam boiling / boiler)	10	--	10	--	--	--	--	25	G-G		Small quantities of waste-water are generated.
44.	80	Spice grinding (upto-20 HP motor)	--	--	--	10	--	10	--	25	G-G		Small quantities of fugitive emissions of raw materials.
45.	66	Spice grinding (>20 hp motor)	--	--	--	10	--	10	--	25	O-G		Mainly air polluting. Fugitive emissions of PM.
46.	81	Steel furniture without spray painting	--	--	--	10	--	10	--	25	G-G		Obnoxious gases from welding as well as noise pollution.
47.	82	Steeping and processing of grains	10	--	10	--	--	--	--	25	G-G		Washing waters are generated.
48.	86	Tyres and tube retreating (without boilers)	--	--	--	10	--	10	--	25	G-G		Due to applications of binding gum / adhesives / cement, some obnoxious fumes may generate.
49.	22	Chilling plant and ice making without using ammonia	12	--	12	--	--	--	--	30	G-G		Cooling water and brine water circuits. Spillages / blow down may take place
50.	26	CO2 recovery	12	--	12	--	--	--	--	30	G-G		Normal water pollution from scrubbing action
51.	32	Distilled water (without boiler) with electricity as source of heat	12	--	12	--	--	--	--	30	G-G		TDS as distillation residues



52.	45	Hotels (up to 20 rooms and without boilers)	12	--	12	--	--	--	--	30	G-G	This score is valid for hotels having overall waste-water generation less than 10 KLD.
53.	53	Manufacturing of optical lenses (using electrical furnace)	12	--	12	--	--	--	--	30	G-G	Small quantities of waste-waters containing TDS, SS are generated.
54.	58	Mineralized water	12	--	12	--	--	--	--	30	G-G	RO Rejects.
55.	68	Tamarind powder manufacturing	12	--	12	15	--	15	--	33.75	O-G	<ul style="list-style-type: none"> Dried tamarind fruits - cleaned and after soaking them in water they are boiled in steam jacketed kettle for about 40-45 minutes. Then pulp is extracted in pulper and dried in drum type drier and on cooling, the final product is packed. Generates small quantities of waste waters and air emissions. Joint score is normalized to 100.
56.	15	Cutting, sizing and polishing of marble stone	15	--	15	--	--	--	--	37.5	O-G	Mainly water polluting . Water pollution score is normalized to 100.
57.	22	Emery powder (fine dust of sand) manufacturing	--	--	--	15	--	15	--	37.5	O-G	Air polluting. PM emissions take place during various stages of grindings of naturally occurring minerals.
58.	25	Flyash export, transport & disposal facilities	-	-	-	15	-	15	-	37.5	R-G	<ul style="list-style-type: none"> This is mainly air polluting activity. This is the normalized score based on air pollution.
59.	48	Mineral stack yard / Railway sidings	15	-	15	15	-	15	-	37.5	R-G	<ul style="list-style-type: none"> Mainly air pollution due to loading, unloading, storage and transportation of the minerals.



												<ul style="list-style-type: none"> Waste-water generation mainly during rains only.
60.	54	Oil and gas transportation pipeline	-	-	-	10	5	15	-	37.5	R-G	<ul style="list-style-type: none"> Contains small gas based power plants up-to 5 MWs. Air pollution score is normalized to 100. In case , if these power plants are bigger / liquid fuel / oil based, scores will be calculated accordingly.
61.	64	Seasoning of wood in steam heated chamber	--	--	--	15	--	15	--	37.5	O-G	<p>Air pollution due to use boiler for supply of steam. Air pollution score is normalized to 100.</p>
62.	84	Synthetic detergent formulation	--	--	--	15	--	15	--	37.5	G-G	<ul style="list-style-type: none"> This score is valid for the industries which are not manufacturing LABSA. It is procured from outside. Small quantities of emissions are generated from mini boiler. Air pollution score is normalized to 100.
63.	69	Tea processing (with boiler)	--	--	--	15	--	15	--	37.5	O-G	<p>With boiler, it is an orange category industry. Without boiler, it will be green category industry.</p>

Note :

- i. Under the column Revised Category, the full forms of the abbreviations are as follows :
- R-R means original category was Red and revised category is also Red
 - R-O means original category was Red and revised category is Orange
 - O-O means original category was Orange and revised category is also Orange
 - O-G means original category was Orange and revised category is Green
 - O-W means original category was Orange and revised category is White
 - G-O means original category was Green and revised category is Orange
 - G-G means original category was Green and revised category is also Green
 - G-W means original category was Green and revised category is White
- ii. There are specific remarks in respect of some of the industrial sectors. These sectors are either merged with other relevant sectors or deleted due to duplication. The overall details are as follows :

Sl No .	Origin al Sl No.	Industry Sector	Original Categor y	Remarks
1	47	Jobbing and Machining	G	Vague category to be deleted, as such activities have already been covered in other categories.
2	66	Reel manufacturing	G	Already covered in other categories. Hence, deleted
3	1	Assembling of acid lead batteries (up to 10 batteries per day excluding lead plate casting)	G	Already covered in Orange category. Hence, deleted
4	5	Automobile fuel outlets (only dispensing)	G	Minor air pollution due to some fugitive emissions during fuel filling operations. May be exempted from the purview of Consent management.
5	30	Diesel generator sets (15 KVA to 1 MVA)	G	<ul style="list-style-type: none"> Normal operation – 12 hrs a day. Consumption of diesel = 1680 litres for 1 MVA DG set at full load @ 0.21 litres / KVA / hr. Stand-alone DG Sets having total capacity 1 MVA or less and equipped with acoustic enclosures alongwith adequate stack height may be exempted from the purview of Consent management. Higher capacity DG sets have already been covered under Red / Orange categories .

Table G-5: Final List of White Category of Industries

Sl. No.	Orgnl Sl. No.	Industry Sector	W1	W2	W	A1	A2	A	H	W+A+H	Revised Category
1.	3	Assembly of air coolers /conditioners ,repairing and servicing	--	--	--	--	--	--	--	--	G-W
2.	4	Assembly of bicycles ,baby carriages and other small non motorizing vehicles	--	--	--	--	--	--	--	--	G-W
3.	7	Bailing (hydraulic press)of waste papers	--	--	--	--	--	--	--	--	G-W
4.	9	Bio fertilizer and bio-pesticides without using inorganic chemicals	--	--	--	--	--	--	--	--	G-W
5.	11	Biscuits trays etc from rolled PVC sheet (using automatic vacuum forming machines)	--	--	--	--	--	--	--	--	G-W
6.	12	Blending and packing of tea	--	--	--	--	--	--	--	--	G-W
7.	14	Block making of printing without foundry (excluding wooden block making)	--	--	--	--	--	--	--	--	G-W
8.	21	Chalk making from plaster of Paris (only casting without boilers etc. (sun drying / electrical oven)	--	--	--	--	--	--	--	--	G-W
9.	25	Compressed oxygen gas from crude liquid oxygen (without use of any solvents and by maintaining pressure & temperature only for separation of other gases)	--	--	--	--	--	--	--	--	G-W
10.	27	Cotton and woolen hosiers making (Dry process only without any dyeing / washing operation)	--	--	--	--	--	--	--	--	G-W
11.	31	Diesel pump repairing and servicing (complete mechanical dry process)	--	--	--	--	--	--	--	--	G-W
12.	33	Electric lamp (bulb) and CFL manufacturing by assembling only	--	--	--	--	--	--	--	--	G-W



13.	34	Electrical and electronic item assembling (completely dry process)	--	--	--	--	--	--	--	--	G-W
14.	23	Engineering and fabrication units (dry process without any heat treatment / metal surface finishing operations / painting)	--	--	--	--	--	--	--	--	O-W
15.	35	Flavoured betel nuts production/ grinding (completely dry mechanical operations)	--	--	--	--	--	--	--	--	G-W
16.	37	Fly ash bricks/ block manufacturing	--	--	--	--	--	--	--	--	G-W
17.	38	Fountain pen manufacturing by assembling only	--	--	--	--	--	--	--	--	G-W
18.	39	Glass ampules and vials making from glass tubes	--	--	--	--	--	--	--	--	G-W
19.	40	Glass putty and sealant (by mixing with machine only)	--	--	--	--	--	--	--	--	G-W
20.	43	Ground nut decorticating	--	--	--	--	--	--	--	--	G-W
21.	44	Handloom/ carpet weaving (without dying and bleaching operation)	--	--	--	--	--	--	--	--	G-W
22.	48	Leather cutting and stitching (more than 10 machine and using motor)	--	--	--	--	--	--	--	--	G-W
23.	51	Manufacturing of coir items from coconut husks	--	--	--	--	--	--	--	--	G-W
24.	52	Manufacturing of metal caps containers etc	--	--	--	--	--	--	--	--	G-W
25.	55	Manufacturing of shoe brush and wire brush	--	--	--	--	--	--	--	--	G-W
26.	57	Medical oxygen	--	--	--	--	--	--	--	--	G-W
27.	60	Organic and inorganic nutrients (by physical mixing)	--	--	--	--	--	--	--	--	G-W
28.	61	Organic manure (manual mixing)	--	--	--	--	--	--	--	--	G-W
29.	63	Packing of powdered milk	--	--	--	--	--	--	--	--	G-W
30.	64	Paper pins and u clips	--	--	--	--	--	--	--	--	G-W
31.	58	Repairing of electric motors and generators (dry mechanical process)	--	--	--	--	--	--	--	--	O-W
32.	74	Rope (plastic and cotton)	--	--	--	--	--	--	--	--	G-W

33.	76	Scientific and mathematical instrument manufacturing	--	--	--	--	--	--	--	--	G-W
34.	78	Solar module non conventional energy apparatus manufacturing unit	--	--	--	--	--	--	--	--	G-W
35.	79	Solar power generation through solar photovoltaic cell, wind power and mini hydel power (less than 25 MW)	--	--	--	--	--	--	--	--	G-W
36.	83	Surgical and medical products assembling only (not involving effluent / emission generating processes)	--	--	--	--	--	--	--	--	G-W

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- d. O-G means original category was Orange and revised category is Green
- e. O-W means original category was Orange and revised category is White
- f. G-O means original category was Green and revised category is Orange
- g. G-G means original category was Green and revised category is also Green
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N. J. P. M.



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
 (पर्यावरण एवं वन मंत्रालय, भारत सरकार)
 (MINISTRY OF ENVIRONMENT & FORESTS, GOVT. OF INDIA)

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19.08.2015

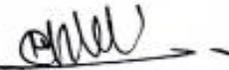
Sub: "Harmonization of Classification of industries under Red / Orange / Green / White Categories".

During the Conference of the Environment Ministers of States held in New Delhi during April 06-07, 2015, it was resolved to adopt pollution potential criteria for categorization of Red, Orange & Green categories of industries and that a Committee be constituted with State representatives. Further, in the 59th Conference of Chairmen & Member Secretaries of Pollution Control Boards/PCCs held in New Delhi on April 08, 2015, it was agreed to constitute a Committee to look into categorization system of industries based on their respective pollution potential index.

2. Accordingly, a Committee comprising the Chairmen of CPCB, APPCB, TNPCB, MPPCB, MPCB, PPCB, WBPCB and MS, CPCB was constituted vide CPCB OM dated 23.04.2015 to review & classify industrial sectors into different categories based on criteria of respective pollution potential indices.
3. The existing Red (85 sectors) , Orange (73 sectors) and Green (86 sectors) industrial sectors have been assessed as per the proposed formula by a group of Scientists from CPCB . For this purpose , concerned Engineers / Scientists from the Member SPCBs of the Committee were also involved & consulted during May28-29, 2015.
4. After careful examination and consideration of the suggestions of concerned stake-holders the "Draft Document on Revised Concept of Categorization of Industrial Sectors " is prepared by the Committee .

In this context, the Undersigned is directed to forward a copy of the " Draft Document on Revised Concept of Categorization of Industrial Sectors to all the SPCBs, PCCs and concerned Ministries for their comments. Accordingly, the same is enclosed herewith and all the SPCBs, PCCs and concerned Ministries are, hereby requested to provide their comments by 04.09.2015. The comments may kindly be sent through hard copy as well as soft copy at e-mail: nkgupta.cpcb@nic.in , nkgpcb@hotmail.com .

Encl : As above



[N.K. Gupta]
Incharge - ESS

To:

1. All the State Pollution Control Boards / Pollution Control Committees
2. The Secretary, Ministry of Micro Small and Medium Enterprises, New Delhi
3. The Secretary, Ministry of Heavy Industries & Public Enterprises, New Delhi
4. The Advisor & Incharge , CP Division, MoEFCC, New Delhi
5. CPCB Website

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Guneet Sidhu <guneet.sidhu@cjslegal.in>

Service: Reply on behalf of JSPL in OA 114/2018

Guneet Sidhu <guneet.sidhu@cjslegal.in>

12 May 2022 at 19:34

To: hocecb@gmail.com, secy-moef@nic.in, ccb.cpcb@nic.in, rahulchoudhary@gmail.com, ps-forest.cg@gov.in, raigarh.cg@gov.in

Cc: Naman Joshi <naman.joshi@cjslegal.in>

Dear Sir,

Please find attached, herewith, the Reply on behalf of Jindal Steel & Power Limited which is being filed in the matter of **Shivpal Bhagat vs UOI & Ors. OA 114/2018** before the Hon'ble National Green Tribunal, Principal Bench, New Delhi.

A copy of the same is, hereby, served upon your goodself.

Best Regards,

Guneet Singh Sidhu
Associate
Chambers of Joshi & Singh
G-46,L.G.F.,
Jangpura Extension,
New Delhi - 110014
+91 8283818896

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