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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI**

Original Application No.40 of 2024

Balwinder Kaur

.....Applicant

Versus

State of Punjab and Others

.....Respondents

Reply of Environmental Engineer, Regional Office, Roopnagar on behalf of Punjab Pollution Control Board.

Respectfully Showeth:

- 1) That briefly submitted that the project proponents namely National Highway Authority of India (NHAI), M/s IRCON International Limited, C-4 District Centre, Saket, New Delhi (IRCON) and M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana (Ceigall) are engaged in the construction activities. M/s IRCON International Limited, C-4 District Centre, Saket, New Delhi - 110017 was awarded letter of award (LOA) from NHAI vide no. NHAI / 35055 / 1/2021 / PB/LRK&LB / PKG3/R/PB-595 dated 22.12.2021 for construction of four / six lane green field Ludhiana - Rupnagar National Highway No. 205K from junction with NE-5 Village near Mannewal (Ludhiana) to junction with NH-205 near Bheora Village (Rupnagar) including spur to Kharar with Ludhiana Bypass under Bharatmala Pariyojana in the State of Punjab on hybrid annuity mode: Package - 3 of total length 43.26 KM.

An agreement between M/s IRCON International Limited and M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana was executed on 04.08.2022 for construction of above said project, which bears the Bid Project Cost of Rs. 1107 Crore excluding GST.

- 2) That M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana has obtained the consent to operate of the Board under the Water (Prevention & Control of Pollution) Act, 1974 vide no. CTOW/Fresh/RPN/2023/21740026 dated 18.04.2023 valid upto 30.09.2024 and under the Air (Prevention & Control of Pollution) Act, 1981 vide no. CTOA/Fresh/RPN/2023/21740017 dated 18.04.2023



valid upto 30.09.2024 for Ready Mix Cement Concrete Plant with the project cost of Rs. 160 Lakhs. The consents were granted with the certain conditions as mentioned therein.

- 3) That the project proponent has not obtained the 'consent to establish' / 'consent to operate' of the Board for construction of National Highway which falls under orange category at serial no. 2052 - New Highway Construction Projects, bearing project cost of Rs. 1107 crores.
- 4) That it is pertinent to mention here that Smt. Balwinder Kaur of Village Pathreri Jattan, Rupnagar has filed a complaint on the portal of Hon'ble National Green Tribunal regarding illegal mining by the project contractor to higher depth. The Hon'ble National Green Tribunal has taken cognizance of the same in OA No. 40 of 2024 titled as Balwinder Kaur v/s State of Punjab & Ors and found it appropriate to call a factual report by constituting Joint Committee comprising of representatives of Punjab Pollution Control Board, and the District Magistrate, Ropar vide order dated 09.04.2024.
- 5) That the Joint Committee has visited the site 23.04.2024 and found several violations in respect of mining conducted at site which included mining of much more material than permitted by M/s Ceigall India Limited, a company employed by National Highway Authority of India for construction of Jammu- Katra Expressway on part coming in district Rupnagar.

The Department of Mines & Geology has issued 3 no. demand notices (S-Notices) amounting to Rs. 62,75,016 against illegal mining to M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana (Ceigall) for excess material extracted and imposed penalty.

- 6) That it is further stated that the project has been established and is in operation without obtaining consent to establish / consent to operate of the Board as required under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 for construction of new National Highway. Hence, the project was found to be in violation.
- 7) That the matter was considered by the Competent Authority of the Board and in view of the violations notice to issue directions u/s 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 31-A of the Air (Prevention & Control of Pollution) Act, 1981 was issued to the project proponents (NHAI, IRCON, Ceigall) vide letter no. 2024-2026 dated 11.07.2024 alongwith an opportunity to appear in person before the



Chairman of the Board at Patiala on 18.07.2024. A copy of letter no. 2024-26 dated 11.07.2024 is enclosed herewith as **Annexure-A**.

- 8) That it is relevant to mention here that the Regional Office, Rupnagar of the Board has revoked/cancelled the consents to operate granted under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 to the ready-mix plant (M/s Ceigall India Ltd., Ludhiana) vide letter no. 1405 dated 12.07.2024, a copy of which is enclosed herewith as **Annexure-B**.
- 9) That in pursuance to the notice issued by the Board, the representatives of the project proponents (NHAI, IRCON, Ceigall) attended the hearing before the Chairman of the Board on 18.07.2024. The submissions made by the project proponents are mentioned below:
- i) Sh. Pankaj Kumar, Resident Engineer o/o CGM (Tech) Punjab, NHAI informed that NHAI has obtained Environmental clearance under EIA notification dated 14/09/2006 on 3/06/2022 from MoEF&CC, GoI for development of National Highway from Ludhiana to Rupnagar, starting from Delhi-Katra Expressway (NE-5) near village Manewal and terminating on NH-205 at Rupnagar near village Bheora including development of its spur under the Bharatmala Pariyojna. The Highway will pass through three districts of Punjab viz. Ludhiana, Rupnagar and SAS Nagar. A copy of the Environmental clearance obtained by NHAI was submitted during the hearing. However, the representative of NHAI was unaware regarding applying for consents to operate of the Board under the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 and informed that they have an agreement with M/s IRCON International Limited, C-4 District Centre, Saket, New Delhi to carry out the project.
 - ii) Sh. Jaswinder Singh, (JGM), M/s IRCON International Limited, Saket, New Delhi informed that they have entered into an agreement with M/s Ceigall India Limited, Civil Lines, Ludhiana to execute the project.

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iii) Sh. Kanwaldeep Singh, Project Director, M/s Ceigall India Limited, Civil Lines, Ludhiana informed that they have started the project on 18/04/2023 after obtaining consents to operate of the Board under the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 for the ready-mix cement concrete plant and were unable to apply for consents for the whole project due to financial issue regarding fixation of total assets by NHAI. The representatives further informed that they have deposited the amount as demanded in the S-notices issued by the Mining department and has also taken measures for prevention of land slide in the area where the mining took place, including backfilling of the mined area.

10) That after hearing the representatives of the project proponents, the Chairman of the Board observed that the Hon'ble National Green Tribunal has taken cognizance of the complaint made by Ms. Balwinder Kaur in OA no. 40 of 2024 wherein it is alleged that illegal mining is being carried out up 15 to 20 feet in agricultural land adjacent to forest departments where thousands of trees are standing and which are facing risk of land-sliding on account of illegal mining which may result in tremendous loss to environment. Though the Department of Mining and Geology has issued demand notice amounting to Rs. 62,75,016/- but the amount is related to the excess material excavated by the company which as per the record available has deposited the same with the department of mines and geology. The issue relating to the damage caused to the environment has not been addressed and the Punjab Pollution Control Board being the prescribed authority to implement the provisions of Environmental laws in the State is empowered to consider and decide the said issue of damage to environment.

It was further observed by the Chairman of the Punjab Pollution Control Board that the Prime responsibility in the case is of the National Highway Authority of India (NHAI) which is executing the project of Bharatmala Pariyojna. NHAI has not obtained the consent to operate of the Board under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 and as such it has violated the laws intentionally and deliberately. NHAI has engaged IRCON which in turn has selected Ceigall India Ltd. for ground execution of the project. In the given circumstances, the sub-

A handwritten signature and initials in blue ink, consisting of a circle around the letters 'M' and 'N' with a vertical line through them.

contractors namely IRCON and Ceigall India Ltd. cannot also escape the liability of damage to environment. Trees are a lifeline to the living organisms and damage to trees will result in serious environmental issues. Hence, all the parties engaged in the execution of the project namely NHAI, IRCON and Ceigall India ltd. are jointly and severally liable to pay the damages and NHAI being the prime party.

11) That after hearing the representatives of the project proponents (NHAI, IRCON and Ceigall India ltd.) and officers of the Board and considering the material aspects of the case, the Chairman of the Board decided as under: -

- a) NHAI shall apply for consents to operate of the Board under the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 for the construction of the highway project, within two weeks.
- b) All the Project Proponents namely NHAI, IRCON and Ceigall India ltd. are jointly and severally liable to pay the damages, NHAI being the prime party. Therefore, Environmental compensation shall be deposited by the project proponents for the damage done to the environment as well as for not obtaining consents to operate of the Board since the date of start of operations of the project i.e. 18.04.2023 till date, within 07 days in the office of Environmental Engineer, Regional Office, Rupnagar. The orders in this regard shall be issued separately.
- c) Environmental Engineer, Regional Office, Rupnagar shall verify the contentions of the project proponents made during the hearing and re-calculate the Environmental Compensation accordingly. He shall also get the Environmental Compensation verified from the Committee constituted by the Board for this purpose and get the orders issued from the Competent Authority in this regard, within two days.

12) That the proceedings of hearing held on 18.7.2024 before the Chairman of the Board have been conveyed for compliance to the following:

- a) Chief General Manger (Tech)-PB
National Highway Authority of India,
G-5&6, Sector-10,
Dwarka, New Delhi
- b) M/s IRCON International Limited,
C-4 District Centre,
Saket, New Delhi.
- c) M/s Ceigall India Limited,
A-898, Tagor Nagar,

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Civil Lines, Ludhiana.

- 13) That the case has been separately considered by the committee constituted by the Board for evaluating the Environmental Compensation to be imposed upon defaulting industrial and other establishment. The committee after consideration of the matter has calculated Environmental Compensation amounting to Rs. 85,87,500/- to be imposed upon the project proponent for violation of the provisions of environmental laws for the period from 18.04.2023 to 18.07.2024. Accordingly, a separate order has been issued whereby Environmental Compensation of Rs. 85,87,500/- has been imposed upon the project proponent to be paid jointly and severally and National Highway Authority of India being prime party. A copy of order bearing no. 321 dated 19.07.2024 is enclosed as **Annexure-C**. The order has been conveyed to the parties vide letter no. 1463-65 dated 19.07.2024.
- 14) That appropriate action has been taken by the Board as explained herein above. The reply on behalf of Punjab Pollution Control Board is hereby submitted in compliance to order dated 22.05.2024 for kind consideration of the Hon'ble Tribunal.

Submitted by



(Birdevinder Singh)

**Environmental Engineer
Punjab Pollution Control Board
Regional Office, Roopnagar.**

Date: 29.7.2024

Place: Roopnagar



ਪੰਜਾਬ ਪ੍ਰਦੂਸ਼ਣ ਰੋਕਥਾਮ ਬੋਰਡ

ਗੇਜਟ-1, ਸੁਕੇਰਾ ਥੇਕਾ, ਡੀ. ਡੀ. ਮਿਹੰਗਾ 147001



e-mail : ppchsec_zp1@yahoo.com

Phone no. 0175-2301102

ਨੰਬਰ 2024-2066

REGISTERED

ਮਿਤੀ 11/7/24

To

1. Chief General Manger (Tech)-PB
National Highway Authority of India,
G-5&6, Sector-10,
Dwarka, New Delhi
2. M/s IRCON International Limited,
C-4 District Centre,
Saket, New Delhi.
3. M/s Ceigall India Limited,
A-898, Tagor Nagar,
Civil Lines, Ludhiana.

Subject:

Notice to issue directions u/s 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 31-A of the Air (Prevention & Control of Pollution) Act, 1981

Whereas, it is obligatory on the part of the project proponent to obtain the consent to establish (NOC) of the Board as required u/s 25 of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 21 of the Air (Prevention & Control of Pollution) Act, 1981 for establishment of a project.

And whereas, it is mandatory on the part of the project proponent to obtain the consent of the Board to operate an outlet/ plant as required u/s 25 of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 21 of the Air (Prevention & Control of Pollution) Act, 1981, for discharge of effluent/ emissions arising from its premises.

And whereas, it is also mandatory on the part of the project proponent to provide adequate and appropriate effluent treatment facilities/ air pollution control device, so as to contain the various pollutants within the standards laid down by the Board, in the effluent/ emissions from the premises of the industry is within the permissible limits prescribed by the Board.

And whereas, the project proponents are engaged in the construction activities. M/s IRCON International Limited, C-4 District Centre, Saket, New Delhi – 110017 was awarded letter of award (LOA) from NHAI vide no. NHAI / 35055 / 1/2021 / PB/LRK&LB / PKG 3/R/PB-595 dated 22.12.2021 for construction of four / six lane green field Ludhiana – Rupnagar National Highway No. 205K from junction with NE-5 Village near Mannewal (Ludhiana) to junction with NH-205 near Bheora Village (Rupnagar) including spur to Kharar with Ludhiana Bypass under Bharatmala Pariyojana in the State of Punjab on hybrid annuity mode: Package – 3 of total length 43.26 KM.

And whereas, an agreement between M/s IRCON International Limited and M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana was executed on 04.08.2022 for construction of above said project.

And whereas, the above said project bears the Bid Project Cost of Rs. 1107 Crore excluding GST. M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana has obtained 'consent to operate' of the Board under the Water (Prevention & Control of Pollution) Act, 1974

(Signature)

vide no. CTOW/Fresh/RPN/2023/21740026 dated 18.04.2023 valid upto 30.09.2024 and under the Air (Prevention & Control of Pollution) Act, 1981 vide no. CTOA/Fresh/RPN/2023/21740017 dated 18.04.2023 valid upto 30.09.2024 for only Ready Mix Cement Concrete Plant with the project cost of Rs. 160 Lakhs with the certain conditions mentioned therein.

And whereas, the project proponent has not obtained the 'consent to establish' / 'consent to operate' of the Board for construction of National Highway which falls under Orange category at serial no. 2052 - New highway construction projects, bearing project cost of Rs. 1107 crores.

And whereas, Smt. Balwinder Kaur of Village Pathreri Jattan, Rupnagar has filed a complaint on the portal of Hon'ble National Green Tribunal regarding illegal mining by the contractor industry to higher depth. The Hon'ble National Green Tribunal has taken cognizance of the same through OA No. 40 of 2024. Hon'ble NGT found it appropriate to call a factual report by constituting Joint Committee comprising of representatives of Punjab Pollution Control Board, and the District Magistrate, Ropar vide order dated 09/04/2024.

And whereas, the Joint Committee visited the site 23/04/2024 and found that several violations in respect of mining conducted at site which included mining of much more material than permitted by M/s Ceigall India Limited, a company employed by National Highway Authority of India for construction of Jammu- Katra Expressway on part coming in district Rupnagar.

And whereas, the Department of Mines & Geology has been issued S-Notices to the industry amounting to Rs. 62,75,016 against illegal mining.

And whereas, the project has been established and in operation without obtaining 'consent to establish' / 'consent to operate' of the Board as required under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 for construction of new National Highway.

And whereas, Regional Office, Punjab Pollution Control Board has proposed to impose Environmental compensation on the project proponents amounting to Rs. 1,29,75,000/- (one crore twenty nine lac seventy five thousand only) for violating the Environmental laws.

And whereas, from the above, it is evident that the project proponent is operating its outlet without the valid consent to establish/ operate of the Board as required under the said Acts.

And whereas, the matter has been considered by the Competent Authority and it has been decided to issue notice u/s 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 31-A of the Air (Prevention & Control of Pollution) Act, 1981 for proposing closure of the project after affording an opportunity of personal hearing, due to aforesaid violations.

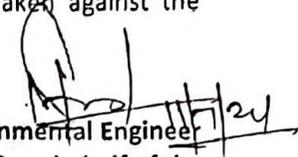
Now, therefore, in exercise of the powers conferred upon its u/s 33-A of the Water (Prevention & Control of Pollution) Act, 1974 u/s 31-A of the Air (Prevention & Control of Pollution) Act, 1981 proposes to issue the following directions: -

- 1) That the establishment/authority shall take all necessary steps to close down its operations.
- 2) That the establishment/authority shall stop forthwith discharging any effluent / emissions from its activity or through any mode.
- 3) That the establishment/authority shall immediately stop its activities and will not restart the same unless all necessary water and air pollution control measures are taken and obtains valid consents of the Board.

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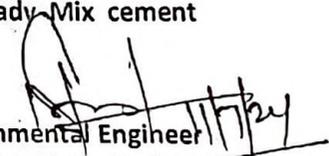
- 4) That Environmental Compensation shall be imposed on the establishment/authority for polluting the environment.
- 5) That the permission granted to the establishment/authority for lifting of fly ash /pond ash from GGSSTP, Rupnagar vide no. 2682 dated 19.04.2023 shall be cancelled.
- 6) That DG sets installed by the establishment/authority shall be sealed.

As such, you are, hereby, afforded an opportunity to appear in person before the Chairman of the Board in his office at Vatavaran Bhawan, Head Office Nabha Road, Patiala on 18/07/2024 at 11:00 AM to explain your failure to comply with provisions of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 failing which, it will be presumed that the project proponent has nothing to say in the matter and further action under the provisions of the said Acts, will be taken against the authority/project proponent, without any further notice/ opportunity.


 Environmental Engineer
 for & on behalf of the
 Punjab Pollution Control Board
 Dated 11/7/24

Endst. no. 2027

A copy of the above is forwarded to the Environmental Engineer, Punjab Pollution Control Board, Regional Office, Rupnagar for information and necessary action. It is requested to inform the authority/project proponents regarding date and time of hearing and also ensure their presence on the said date and time of hearing. It is also requested to personally attend the hearing on the said date and time. Also, it has been decided by the Competent Authority to immediately revoke/cancel the consent to operate granted to the Ready-Mix cement concrete plant of the project proponent under green category.


 Environmental Engineer
 for & on behalf of the
 Punjab Pollution Control Board

 PUNJAB POLLUTION CONTROL BOARD	Punjab Pollution Control Board Regional Office-Rupnagar #281, Giani Zail Singh Nagar, Rupnagar-140001 eeroropar@gmail.com
	Registered
No. 1405	Date: 12/07/24

To

M/s Ceigall India Ltd.,
 Village: Gaggon, Tehsil Sri Chamkaur Sahib,
 Distt: Rupnagar.

Subject: Revocation/Cancellation of 'consent to operate' of the Board under the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981.

Whereas, it is obligatory on the part of the project proponent to obtain the consent to establish (NOC) of the Board as required u/s 25 of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 21 of the Air (Prevention & Control of Pollution) Act, 1981 for establishment of a project.

And whereas, it is mandatory on the part of the project proponent to obtain the consent of the Board to operate an outlet/ plant as required u/s 25 of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 21 of the Air (Prevention & Control of Pollution) Act, 1981, for discharge of effluent/ emissions arising from its premises.

And whereas, it is also mandatory on the part of the project proponent to provide adequate and appropriate effluent treatment facilities/ air pollution control device, so as to contain the various pollutants within the standards laid down by the Board, in the effluent/ emissions from the premises of the industry is within the permissible limits prescribed by the Board.

And whereas, the project proponents are engaged in the construction activities. M/s IRCON International Limited, C-4 District Centre, Saket, New Delhi – 110017 was awarded letter of award (LOA) from NHAI vide no. NHAI / 35055 / 1/2021 / PB/LRK&LB / PKG3/R/PB-595 dated 22.12.2021 for construction of four / six lane green field Ludhiana – Rupnagar National Highway No. 205K from junction with NE-5 Village near Mannawal (Ludhiana) to junction with NH-205 near Bheora Village (Rupnagar) including spur to Kharar with Ludhiana Bypass under Bharatmala Pariyojana in the State of Punjab on hybrid annuity mode: Package – 3 of total length 43.26 KM.

And whereas, an agreement between M/s IRCON International Limited and M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana was executed on 04.08.2022 for construction of above said project.

And whereas, the above said project bears the Bid Project Cost of Rs. 1107 Crore excluding GST. M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana has obtained 'consent to operate' of the Board under the Water (Prevention & Control of Pollution) Act, 1974 vide no. CTOW/Fresh/RPN/2023/21740026 dated 18.04.2023 valid upto 30.09.2024 and under the Air (Prevention & Control of Pollution) Act, 1981 vide no. CTOA/Fresh/RPN/2023/21740017 dated 18.04.2023 valid upto 30.09.2024 for Ready Mix Cement Concrete Plant only with the project cost of Rs. 160 Lakhs, with the certain conditions mentioned therein.

And whereas, the project proponent has not obtained the 'consent to establish' / 'consent to operate' of the Board for construction of National Highway which falls under Orange category at serial no. 2052 - New highway construction projects, bearing project cost of Rs. 1107 crores.

And whereas, Smt. Balwinder Kaur of Village Pathreri Jattan, Rupnagar has filed a complaint on the portal of Hon'ble National Green Tribunal regarding illegal mining by the contractor industry to higher depth. The Hon'ble National Green Tribunal has taken cognizance of the same through OA No. 40 of 2024. Hon'ble NGT found it appropriate to call a factual report

by constituting Joint Committee comprising of representatives of Punjab Pollution Control Board, and the District Magistrate, Ropar vide order dated 09/04/2024.

And whereas, the Joint Committee visited the site 23/04/2024 and found that several violations in respect of mining conducted at site which included mining of much more material than permitted by M/s Ceigall India Limited, a company employed by National Highway Authority of India for construction of Jammu- Katra Expressway on part coming in district Rupnagar.

And whereas, the Department of Mines & Geology has issued S-Notices to the industry amounting to Rs. 62,75,016/- against illegal mining.

And whereas, the project has been established and in operation without obtaining 'consent to establish' / 'consent to operate' of the Board as required under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 for construction of new National Highway.

And whereas, the matter has been considered by the Competent Authority and it has been decided to revoke / cancel the 'consent to operate' granted to the industry under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 for operation of Ready Mix cement concrete plant under the green category.

As such, in exercise of the powers conferred upon the Board, the 'consent to operate' of the Board granted under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 is hereby, revoked / cancelled, due to above said reasons.


12/7/24
Senior Environmental Engineer (U.P.) 

Endst. No. 1406

Date: 12/07/24

The copy of above is forwarded to the Senior Environmental Engineer, Punjab Pollution Control Board, Zonal Office-1, Patiala, in compliance to his office letter no. 2024-27 dated 11.07.2024, for information please.


12/7/24
Senior Environmental Engineer (U.P.) 

Punjab Pollution Control Board

Vatavaran Bhawan, Patiala

No. 321

Dated 19/07/24

Subject: Imposition of Environmental Compensation for violation of the provisions of Environmental Laws by National Highway Authority of India (NHAI), M/s IRCON International Limited and M/s Ceigall India Limited.

Order

In order to protect and improve the environment and for prevention of hazards to human beings, other living creatures, plants and property and maintaining or resorting the wholesomeness of water and to preserve the quality of air, the Parliament of India had enacted the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and certain rules under the provisions of the Environment (Protection) Act, 1986 and all these Laws are collectively and severally being referred to as the Environmental Laws. The Board being the prescribed authority is implementing the provisions of the Environmental Laws namely the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the Rules made thereunder in the State of Punjab.

2) That briefly stated the project proponents namely National Highway Authority of India (NHAI), M/s IRCON International Limited, C-4 District Centre, Saket, New Delhi (IRCON) and M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana (Ceigall) are engaged in the construction activities. M/s IRCON International Limited, C-4 District Centre, Saket, New Delhi - 110017 was awarded letter of award (LOA) from NHAI vide no. NHAI / 35055 / 1/2021 / PB/LRK&LB / PKG3/R/PB-595 dated 22.12.2021 for construction of four / six lane green field Ludhiana-Rupnagar National Highway No. 205K from junction with NE-5 Village near

Mannewal (Ludhiana) to junction with NH-205 near Bheora Village (Rupnagar) including spur to Kharar with Ludhiana Bypass under Bharatmala Pariyojana in the State of Punjab on hybrid annuity mode: Package - 3 of total length 43.26 KM.

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3) That M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana has obtained the consent to operate of the Board under the Water (Prevention & Control of Pollution) Act, 1974 vide letter no. CTOW/Fresh/RPN/2023/21740026 dated 18.04.2023 valid upto 30.09.2024 and under the Air (Prevention & Control of Pollution) Act, 1981 vide letter no. CTOA/Fresh/RPN/2023/21740017 dated 18.04.2023 valid upto 30.09.2024 for Ready Mix Cement Concrete Plant with the project cost of Rs. 160 Lakhs. The consents were granted with the certain conditions as mentioned therein.

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mining of much more material than permitted by M/s Ceigall India Limited, a company employed by National Highway Authority of India for construction of Jammu- Katra Expressway on part coming in district Rupnagar.

The Department of Mines & Geology has issued 3 no. demand notices (S-Notices) amounting to Rs. 62,75,016 against illegal mining to M/s Ceigall India Limited, A-898, Tagor Nagar, Civil Lines, Ludhiana (Ceigall) for excess material extracted and imposed penalty.

- 7) That it is further stated that the project has been established and is in operation without obtaining consent to establish / consent to operate of the Board as required under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 for construction of new National Highway. Hence, the project was found to be in violation.
- 8) That the matter was considered and in view of the violations, notice to issue directions u/s 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 31-A of the Air (Prevention & Control of Pollution) Act, 1981 was issued to the project proponents (NHAI, IRCON, Ceigall) vide letter no. 2024-2026 dated 11.07.2024 alongwith an opportunity to appear in person before the Chairman of the Board at Patiala on 18.07.2024.
- 9) That it is relevant to mention here that the Regional Office, Rupnagar of the Board has revoked/cancelled the consents to operate granted under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 to the ready-mix plant (M/s Ceigall India ltd., Ludhiana) vide letter no. 1405 dated 12.07.2024.
- 10) That in pursuance to the notice issued by the Board, the representatives of the project proponents (NHAI, IRCON, Ceigall) attended the hearing before the undersigned Chairman of the Board on 18.07.2024. The submissions made by the project proponents are mentioned below:
- i) Sh. Pankaj Kumar, Resident Engineer o/o CGM (Tech) Punjab, NHAI informed that NHAI has obtained Environmental clearance under EIA notification dated

14/09/2006 on 3/06/2022 from MoEF&CC, GoI for development of National Highway from Ludhiana to Rupnagar, starting from Delhi-Katra Expressway (NE-5) near village Manewal and terminating on NH-205 at Rupnagar near village Bheora including development of its spur under the Bharatmala Pariyojna. The Highway will pass through three districts of Punjab viz. Ludhiana, Rupnagar and SAS Nagar. A copy of the Environmental clearance obtained by NHAI was submitted during the hearing. However, the representative of NHAI was unaware regarding applying for consents to operate of the Board under the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 and informed that they have an agreement with M/s IRCON International Limited, C-4 District Centre, Saket, New Delhi to carry out the project.

- ii) Sh. Jaswinder Singh, (JGM), M/s IRCON International Limited, Saket, New Delhi informed that they have entered into an agreement with M/s Ceigall India Limited, Civil Lines, Ludhiana to execute the project.
- iii) Sh. Kanwaldeep Singh, Project Director, M/s Ceigall India Limited, Civil Lines, Ludhiana informed that they have started the project on 18/04/2023 after obtaining consents to operate of the Board under the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 for the ready-mix cement concrete plant and were unable to apply for consents for the whole project due to financial issue regarding fixation of total assets by NHAI. The representatives further informed that they have deposited the amount as demanded in the S-notices issued by the Mining department and has also taken measures for

prevention of land slide in the area where the mining took place, including backfilling of the mined area.

11) That after hearing the representatives of the project proponents, it was observed that the Hon'ble National Green Tribunal has taken cognizance of the complaint made by Ms. Balwinder Kaur in OA no. 40 of 2024 wherein it is alleged that illegal mining is being carried out up 15 to 20 feet in agricultural land adjacent to forest departments where thousands of trees are standing and which are facing risk of land-sliding on account of illegal mining which may result in tremendous loss to environment. Though the Department of Mining and Geology has issued demand notice amounting to Rs. 62,75,016/- but the amount is related to the excess material excavated by the company which as per the record available has deposited the same with the department of mines and geology. The issue relating to the damage caused to the environment has not been addressed and the Punjab Pollution Control Board being the prescribed authority to implement the provisions of Environmental laws in the State is empowered to consider and decide the said issue of damage to environment.

It was further observed that the Prime responsibility in the case is of the National Highway Authority of India (NHAI) which is executing the project of Bharatmala Pariyojna. NHAI has not obtained the consent to operate of the Board under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 and as such it has violated the laws intentionally and deliberately. NHAI has engaged IRCON which in turn has selected Ceigall India Ltd. for ground execution of the project. In the given circumstances, the sub-contractors namely IRCON and Ceigall India Ltd. cannot also escape the liability of damage to environment. Trees are a lifeline to the living organisms and damage to trees will result in serious environmental issues. Hence, all the parties engaged in the execution of the project namely NHAI, IRCON and Ceigall India Ltd. are jointly and severally liable to pay the damages and NHAI being the prime party.

Ammik Singh

12) It is relevant to brought on record that the Hon'ble Supreme Court of India has considered the Principles of Precaution, Sustainable development and Polluter Pay's and decided to strictly implement the same. The decisions so taken by the Hon'ble Supreme Court of India are summarized herein below:

- i. The concept of precautionary principle was considered in *M.C Mehta versus Union of India and others* and vide judgment dated 11.10.1996 the Hon'ble Supreme Court of India held that the Precautionary Principle has been accepted as a part of the Law of the land.
- ii. The concept of sustainable development was considered in *M.C Mehta versus Union of India and others* (1997) 2 SCC 353 and it was decided by the Hon'ble Supreme Court of India that the development is essential for the economy of the country but at the same time the environment and eco systems have to be protected.
- iii. The Hon'ble Supreme Court of India has also considered the concept of Polluter Pay's Principle in *Indian Council for Enviro Legal Action and others v/s Union of India and others* (1996) 3 SCC 212 para 16, *Vellore Citizens Welfare Forum v/s Union of India* (1996) 5 SCC 647 para 12-18 and held that Polluter Pay's Principle is accepted principle and part of environmental law of the country without even specific statute.

13) The Hon'ble National Green Tribunal has issued directions in several cases to impose environmental compensation on non-complying units and has been directing the Central Pollution Control Board, all the State Pollution Control Boards including the Punjab Pollution Control Board to implement Polluter Pay's Principle. In compliance to the orders of the Hon'ble National Green Tribunal the Central Pollution Control Board has formulated the methodology for assessing environmental compensation on the basis of a formula submitted to the Hon'ble National Green Tribunal as mentioned in its order dated 19.2.2019 passed in O.A No. 593/ 2017 and the Punjab Pollution Control Board has adopted the said methodology and is thereby imposing environmental compensation to recover from the defaulters and to use the

amount so recovered for restoration of environmental damage / degradation caused in the area and to the public.

14) That after hearing the representatives of the project proponents (NHAI, IRCON and Ceigall India ltd.) and officers of the Board and considering the material aspects of the case, the undersigned being the Chairman of the Board has decided as under:

- a) NHAI shall apply for consents to operate of the Board under the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 for the construction of the highway project, within two weeks.
- b) All the Project Proponents namely NHAI, IRCON and Ceigall India ltd. are jointly and severally liable to pay the damages, NHAI being the prime party. Therefore, Environmental compensation shall be deposited by the project proponents for the damage done to the environment as well as for not obtaining consents to operate of the Board since the date of start of operations of the project i.e. 18.04.2023 till date, within 07 days in the office of Environmental Engineer, Regional Office, Rupnagar. The orders in this regard shall be issued separately.
- c) Environmental Engineer, Regional Office, Rupnagar shall verify the contentions of the project proponents made during the hearing and re-calculate the Environmental Compensation accordingly. He shall also get the Environmental Compensation verified from the Committee constituted by the Board for this purpose and get the orders issued from the Competent Authority in this regard, within two days.

15) The proceedings of the hearing held on 18.7.2024 have been conveyed for compliance to the project proponents namely National Highway Authority of India (NHAI), M/s IRCON International Limited and M/s Ceigall India Limited on the address mentioned in para no.2 of the order above.

Amrik Singh

16) That the case has been separately considered by the committee constituted by the Board for evaluating the Environmental Compensation to be imposed upon defaulting industrial and other establishments. The committee after consideration of the matter has calculated Environmental Compensation amounting to Rs. 85,87,500/- to be imposed upon the project proponent for violation of the provisions of environmental laws for the period from 18.04.2023 to 18.07.2024 for causing damage to the environment in accordance with the formula evolved by the Central Pollution Control Board and adopted by the Punjab Pollution Control Board. All the project proponents are jointly and severally liable to pay the Environmental Compensation for causing to the damage to the environment and National Highway Authority of India (NHAI) being the prime authority.

17) Accordingly, the Project Proponents namely the National Highway Authority of India (NHAI), M/s IRCON International Limited and M/s Ceigall India Limited are hereby directed to deposit an amount of Rs. 85,87,500/- (Eighty Five Lakh, Eighty Seven Thousand Five Hundred only) as environmental compensation jointly and severally, the National Highway Authority of India (NHAI) being prime party with the office of the Punjab Pollution Control Board for degrading and damaging the environment for the period of violation as recorded above, within 15-days from the date of receipt of this order, failing which necessary action will be initiated for recovery of the amount of environmental compensation by adopting coercive measures.

18 Take notice that no further intimation or reminder will be issued or served by the Board in this regard after the lapse of stipulated period of 15-days. The Environmental Engineer, Punjab Pollution Control Board, Regional Office, Roopnagar is directed to ensure compliance of directions issued to the project proponents.

Adarsh Pal Vig
Dr. (Prof.) Adarsh Pal Vig
 @ Chairman

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