

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 620 / 2022

IN THE MATTER OF:

KAUSHAL KISHORE VISHWAKARMA

...APPLICANT

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

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NDOH : 08.01.2024

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THROUGH

Dikala

(SUNIL TYAGI) (PANKHURI JAIN)

(NIKITA MAHESHWARI) (PARI BHARADWAJ)

Counsels for the Respondent No.10

ZEUS LAW ASSOCIATES

2, Palam Marg, Vasant Vihar, New Delhi - 110 057

Tel.: 011- 41733090; 8979331122 | zeus@zeus.firm.in

Place: New Delhi

Date 28.12.2023

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 620 / 2022

IN THE MATTER OF:

KAUSHAL KISHORE VISHWAKARMA

...APPLICANT

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...RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT NO. 10 TO THE APPLICATION FILED
BY THE APPLICANT**

1. The present Reply is being filed on behalf of National Fertilizers Limited, Nangal -i.e., Respondent No.10 to the captioned Application. Respondent No.10 is being represented by its Authorized Representative, Sh. A.K. Jain, Executive Director, being fully conversant with the facts of the case and duly authorized.
2. The captioned Application was filed by the Applicant complaining about the non-compliance of the Order, dated 17.01.2020 (wrongly mentioned as 17.01.2022), passed by this Hon'ble Tribunal in O.A. No. 72/2019, titled "*Rakesh Singh vs. State of Punjab*". At the outset, it is submitted that no averments/allegations have been raised against Respondent No.10 by the Applicant.

अनुपम

3. The Respondent No. 10 was only impleaded by this Hon'ble Tribunal in the present proceedings vide Order, dated 24.11.2023, to verify the factual position regarding storage and disposal of carbon slurry, if any, by the Plant. It is humbly submitted that the Respondent No. 10 has always been committed to the safe management, storage and disposal of carbon slurry.

PRELIMINARY SUBMISSIONS:

4. A brief on the generation and storage of carbon slurry by the Plant / Unit of Respondent No.10 situated in Nangal is provided below for ready reference of this Hon'ble Tribunal :
 - a. Respondent No.10 started its commercial production in the year 1978 wherein it used Fuel Oil ("FO") / Low Sulphur Heavy Stock ("LSHS") as feedstock for the production of Urea from 1978 till February, 2013.
 - b. The Plant was based on the partial oxidation of Fuel Oil by the Shell Gasification process with the help of oxygen and steam at 55 kg/cm² at a temperature of 1,350 degrees Celsius. During the partial oxidation of Fuel Oil, which is an energy-intensive process, carbon is generated due to inevitable thermal cracking.
 - c. The carbon so generated was removed from the raw gas by water and collected in a carbon separator called "Carbon Slurry", a mixture of carbon and water.
 - d. As per the design, about 80% of the generated carbon was recycled back to the process in the form of carbon oil as feed through the carbon recovery unit, while the balance quantity was sent as Carbon Slurry to the separate designated brick-lined Carbon Slurry Ponds.

31/5/23

5. In an endeavor to keep in pace with clean technology and with a commitment to sustainable development, the Plants of Respondent No.10 were restructured in February, 2013. The feedstock was replaced from LSHS to Natural Gas, which not only reduced the specific energy per metric tonnes (hereinafter referred to as "MT") of urea, but also lowered the carbon footprint. The change of feedstock from Fuel Oil to Natural Gas also annulled the generation of carbon slurry as a by-product.
6. As a result, there has been no generation of carbon slurry at the Respondent No.10's Unit since February, 2013. At that point of time, the leftover carbon slurry, amounting to approximately 9,800 MT (inclusive of water), was stored in the designated carbon slurry ponds after following all the rules, regulations, guidelines and taking all necessary precautions till 2022. It is to be noted that at that point, the carbon slurry was not categorized as a "Hazardous Waste".
7. The carbon slurry generated till February, 2013 was stored by the Respondent No.10 in three (3) separate designated carbon slurry ponds with High-Density Polyethylene ("HDPE") lining which is excellent in its durability, flexibility, impermeability, and resistance to avoid environmental conditions. These carbon slurry ponds were located in the Respondent No.10's Unit premises only.
8. The three (3) carbon slurry ponds, which are maintained by Respondent No.10 with utmost care and caution, are 8,820 sq. mtrs., 3,969 sq. mtrs. and 14,700 sq. mtrs, respectively, totaling to 27,489 sq. mtrs. (approximately) in size and had an average depth of 2.5 mtrs.

31/5/2022

Hazardous Waste (Management and Transboundary Movement) Rules, 2016

9. It is imperative to mention that in the meantime, “carbon residue in production of nitrogenous and complex fertilizers” was categorized as “Hazardous Waste” under Category 18.2 of Schedule - I after the notification of the Hazardous Waste (Management and Transboundary Movement) Rules, 2016 (hereinafter referred to as “**said Rules**”) on 04.04.2016. Hence, up until 2016, Carbon Slurry did not attract the provisions of the Hazardous Waste Management Rules notified by the Government of India from time to time.

E-auction for disposal of Carbon Slurry according to the said Rules

10. As per the said Rules, Carbon Slurry could only be lifted by ‘intermediaries’ – i.e., processors – from the Ponds and could not be sold to consumers / industries directly. Furthermore, only valid authorized parties registered with the Central Pollution Control Board (hereinafter referred to as “**CPCB**”) or the concerned State Pollution Control Board (hereinafter referred to as “**SPCB**”) could participate in the tendering process.
11. Accordingly, E- Auction No. MSTC/ NRO/ NATIONAL FERTILIZERS LIMITED/ 16/ NFL NAYA NANGAL/ 16-17/ 17532, dated 07.02.2017, was conducted by Metal Scrap Trade Corporation Limited (hereinafter referred to as “**MSTC**”) on behalf of the Respondent No.10 on an ‘as is where is basis’, for the lifting / sale / removal of Carbon Slurry from the three ponds of the Respondent No.10. The E-auction was conducted on the basis of a report submitted by an outside agency -i.e., Projects and Development India Limited (“**PDIL**”).

अनुपम

12. A total of three (3) bidders participated the E-Auction as under:

S.No.	Name of the Bidders
1.	Carbo Chem Industries, Bathinda
2.	Super Trading Corporation, Bathinda
3.	Rohtak Wire and Hardware Store, Delhi

13. The H-1 Bidder was Carbo Chem Industries, Bathinda. In furtherance of the same, the Acceptance Letter was issued by MSTC on 28.07.2017, on behalf of the Respondent No.10.
14. Thereafter, Carbo Chem Industries, Bathinda started lifting the material at Respondent No.10's Plant from 03.10.2020 onwards and successfully finished the lifting of the Carbon Slurry by 31.12.2022.
15. It is humbly submitted that the Respondent No.10 has disposed-off the entire quantity of Carbon Slurry stored at its Ponds, in accordance with the said Rules and other Regulations as issued by the Government of India from time to time. At present there is no quantity of carbon slurry at the premises of Respondent No.10.
16. It is further submitted that the captioned Application is not maintainable against the Respondent No.10, who has been managing, storing and disposing off the Carbon Slurry in its Unit with utmost care and precautions. Moreover, no allegations have been raised by the Applicant against the Respondent No.10.

अनुपम

17. The Respondent No.10 shall suffer grave prejudice and irreparable loss if the captioned Application is allowed *qua* the Respondent No.10. The present Reply is being filed *bonafide* and in the interest of justice, in furtherance of the Order, dated 24.11.2023, passed by this Hon'ble Tribunal.

PRAYER

In view of the above-mentioned facts and submissions, it is most respectfully prayed to this Hon'ble Tribunal that it may be pleased to:

- a. Dismiss the Original Application No. 620 of 2022, titled "*Kaushal Kishore Vishwakarma vs. State of Punjab and Others*" *qua* the Respondent No.10 -i.e., National Fertilizers Limited, Nangal ; and/ or
- b. Pass any order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.


RESPONDENT NO. 10


(ए.के. जैन / A. K. Jain)
कार्यकारी निदेशक / Executive Director
नेशनल फर्टिलाइजर्स लिमिटेड / N.F.L.
नंगल इकाई / Nangal Unit
(SUNIL TYAGI) (PANKHURI JAIN)
(NIKITA MAHESHWARI) (PARI BHARADWAJ)

Counsels for the Respondent No.10
ZEUS LAW ASSOCIATES

2, Palam Marg, Vasant Vihar, New Delhi - 110 057
Tel.: 011- 41733090; 8979331122 | zeus@zeus.firm.in

Place: Nangal

Date: 28.12.2023

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

O.A. NO. 620 / 2022



IN THE MATTER OF:

KAUSHAL KISHORE VISHWAKARMA

...APPLICANT

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

AFFIDAVIT

I, A.K. Jain, S/o Shri Brij Bhushan Jain, aged about 59 Years, Executive Director, National Fertilizers Limited, Nangal Unit, District-Rupnagar, do hereby solemnly affirm and state as under :-

1. That I am the Authorised Signatory/Executive Director of the Respondent No.10 in the present proceedings. I am fully conversant with the facts of the case and thus competent and authorized to swear this Affidavit.

अज्ञात



2. That the accompanying Reply has been drafted under my instructions and the contents thereof, except the legal averments contained therein, are true and correct to the best of my knowledge and belief. The legal averments contained therein are true and correct on the basis of the legal advice, received by me and believed by me to be true and correct.
3. I state that no part of this Affidavit is false and no material facts have been concealed therefrom.
4. The Documents are true copies of their respective originals.

अनुदित

DEPONENT

(ए.के. जैन / A. K. Jain)
कार्यकारी निदेशक / Executive Director
नेशनल फर्टिलाइजर्स लिमिटेड / N.F.L.
नंगल इकाई / Nangal Unit

VERIFICATION:

I, A.K. Jain, the above named Deponent, do hereby verify that the contents of this Affidavit are true and correct and no material facts have been concealed therefrom.

Verified at Nangal on this 28 day of Dec, 2023.

Certified that this AK
is produced for attestation by
AK Jain Bhushan
NFL Nangal
Kuldeep Raj
Legal Cell
28/12/23 Law Place

**ATTENDED
NOTARY**

अनुदित

DEPONENT

(ए.के. जैन / A. K. Jain)
कार्यकारी निदेशक / Executive Director
नेशनल फर्टिलाइजर्स लिमिटेड / N.F.L.
नंगल इकाई / Nangal Unit

**NATIONAL FERTILIZERS LTD.
CORPORATE OFFICE : NOIDA**



**DELEGATION OF POWERS BY C&MD
TO THE CHIEF MANAGER &
ABOVE LEVEL EXECUTIVES
AS ON 27.05.2020**

CERTIFIED TRUE COPY


24/8/2021
अशोक झा
कंपनी सचिव
(ए.सी.एस. 14100)
नेशनल फर्टिलाइजर्स लिमिटेड



167

1

10

COMPANY SECRETARIAT
CORPORATE OFFICE

No.NFL/SEC/6.0/1602

Dated: 27.05.2020

CIRCULAR

Sub: Delegation of Powers (DoP) by C&MD to Functional Directors and below Board Level Executives – Consolidation thereof.

This is in continuation to Circular No. NFL/SEC/6.0/148 dated 15.03.2017 regarding Delegation of Powers (DoPs) by C&MD to Functional Directors and below Board Level Executives and modifications issued thereto from time to time.

The DoPs has been revisited and further modifications have been made therein. Consolidated DoPs as on the date of issue is attached as annexure hereto.

Further, power delegated separately to ED/GM, etc. for the time being shall not be affected.

Circulated to all concerned for information and guidance.


(Ashok Jha)
Company Secretary

Encl: As above

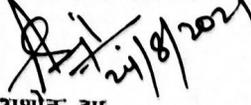
Distribution:

- All Unit Heads.
- All Head of Departments at Corporate Office, Noida.
- All Zonal / State Managers in Marketing Division.

Copy to:

- Secretary to C&MD/D(M)/D(F)/D(T)/CVO.

CERTIFIED TRUE COPY


अशोक झा
कंपनी सचिव
(ए.सी.एस. 14100)
नेशनल फर्टिलाइजर्स लिमिटेड



NATIONAL FERTILIZERS LIMITED
CORPORATE OFFICE : COMPANY SECRETARIAT

No.NFL/SEC/6.0/1487

Dated: 15.03.2017

C I R C U L A R

Sub: Delegation of Powers by C&MD to Functional Directors and below Board Level Executives – Revision thereof.

In terms of Clause 9.1 of the Powers delegated to C&MD by the Board vide its Resolution No.403.3.4 dated 12.11.2015, C&MD is pleased to sub-delegate, with immediate effect, financial, administrative and other powers to Functional Directors and below Board Level Executives as per Annexure-I annexed hereto.

The delegated authority shall be exercised subject to observance of Preamble and only in reference to the areas/functions assigned.

Further, powers delegated separately to ED/GM, etc. for the time being shall not be affected.

Circulated to all concerned for information and guidance.

R. Kumar

(Raj Kumar)

Company Secretary

Encl: As above.

Distribution:

- 1 Unit Heads/HoDs at CO/ZMs/SMs.
- 2 HR/Finance Heads at Units.

Copy to:

1. Secretary to C&MD
2. Secretary to D(F)/D(T)/CVO/ED (Mktg.)/GM (HR)

CERTIFIED TRUE COPY

24/8/2017
अशोक झा
कंपनी सचिव
(ए.सी.एस. 14100)
नेशनल फर्टिलाइजर्स लिमिटेड

Annexure-I



DELEGATION OF POWERS (DoP) TO FUNCTIONAL DIRECTORS AND BELOW BOARD LEVEL EXECUTIVES	
PREAMBLE	
1. The Powers delegated shall be exercised in the overall interests of the Company subject to: <ul style="list-style-type: none"> • The objectives of the Company and the stipulations laid down in the Memorandum & Articles of Association of the Company. • Directions issued/policies laid down by the Govt. of India. • Directions, Policies, Procedures, Manuals, Rules, Standing Orders, Guidelines laid down by the Board/C&MD/Directors. • Budget. • General cannons of financial propriety. 	4. The delegated authority shall be exercised only in connection with the areas/functions assigned.
2. The powers delegated are for ensuring smooth and efficient operations. The delegated powers shall be exercised in a fair and transparent manner.	5. In case of conflict between provisions of DoP and Manuals i.e. Purchase, Works, Stores, Marketing, etc., the provisions of DoP shall prevail.
3. In the event of any difference of opinion between ED/Unit Head with the Finance Department, while seeking financial concurrence, the matter shall be referred to Director (Finance)/ C&MD, whose decision shall be binding. In the event of any difference of opinion between Zonal Manager/Finance Department, while seeking financial concurrence, the matter shall be referred to GM (F&A), CMO/Director (Mktg.), whose decision shall be binding.	6. <ul style="list-style-type: none"> • DoP is on each case basis unless it is specifically provided. • All cases involving sanction of foreign exchange expenditure exceeding Rs.100 lakh in each case shall require prior approval of C&MD. • Financial powers shall be exercised following procedure(s) specified in respective Manual i.e. Purchase, Works, Stores, Marketing, etc. wherever applicable.
	7. Further sub-delegation shall only be made with the specific approval of C&MD.

CERTIFIED TRUE COPY

अशोक झा
कंपनी सचिव
(ए.सी.एस. 14100)

नेशनल फर्टिलाइजर्स लिमिटेड

R. Kumar

DELEGATION OF POWERS TO FUNCTIONAL DIRECTORS AND BELOW BOARD LEVEL EXECUTIVES						
S. No.	Subject	Functional Director	Executive Director/Unit Head	General Manager	Dy. General Manager / Zonal Manager	Chief Manager / State Manager
6.22	Institutional charges/honorarium and domestic TA/DA to faculty for training/seminar, etc.	Full Powers	Full Powers	Full Powers	Full powers upto institutional charges of Rs.4000 per day for institutions and Rs.2000 and Rs.1000 per session for external and internal faculty respectively.	Nil
6.23	Allotment of House in NFL township or NFL's leased premises as per approved policy.	Full Powers	Full Powers	Full Powers for GM (HR) CO	Nil	Nil
6.24	Re-appropriation of buildings, dismantling of temporary structures and their disposal.	Full powers	Full powers	Full Powers for GM (HR) CO	Nil	Nil
6.25	Renting to outsiders residential accommodation.	Full powers	Full powers	Full Powers for GM (HR) CO	Nil	Nil
6.26	Fixing rent/rate for shops, premises, business premises and NFL quarters.	Full powers	Full powers	NIL	NIL	NIL
6.27	Approval of charges for water, electricity and furniture of NFL's premises and property as per policy of the Company.	Full Powers	Full Powers	Full Powers	Full Powers	Full Powers
7.0	Legal and Compliance Matters					
7.1	Engagement of Advocates/legal professionals/Consultants on case to case basis in various branches of law/enactments subject to guidelines issued by Corporate Office.	Full Powers	Full Powers	Full Powers	Full Powers	Full Powers
7.2	Engagement of Advocates / consultants on retainerhip.	Rs.5 lakh in each case	Nil	Nil	Nil	Nil

CERTIFIED TRUE COPY

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DELEGATION OF POWERS TO FUNCTIONAL DIRECTORS AND BELOW BOARD LEVEL EXECUTIVES						
S. No.	Subject	Functional Director	Executive Director/Unit Head	General Manager	Dy. General Manager / Zonal Manager	Chief Manager / State Manager
7.3	To institute and/or defend legal proceedings of whatever nature, be they civil, criminal, labour, revenue or otherwise and to sign and verify plaints, written statements petitions of claims and objections, memorandum of appeal and applications of all kinds and to file them in any court/office subject to guidelines as issued from time to time.	Full Powers	Full Powers	Full Powers	Full Powers	Full Powers
7.4	General Power of Attorney, authorizing various officers of Corporate Office/Central Mktg. Office/Units/Divisions by name to sign and verify legal submissions/documents on behalf of company subject to guidelines as issued from time to time.	Full powers	Full powers	Nil	Nil	Nil
7.5	Reference of Arbitration claims by or against the company, acceptance of arbitration award, appointment of Arbitrators, etc.	Rs.150 lakh	Rs.50 lakh	NIL	NIL	NIL
7.6	Abandon any legal proceedings instituted by the company or settle disputes through compromise outside the court of law with report to C&MD.	Rs.75 lakh	Rs.20 lakh in consultation with Corporate Legal	NIL	NIL	NIL
8.0	Industrial Relations					
8.1	Industrial Relations and matters related to Workers' Unions/ Officers' Association. Prior approval of CMD be obtained before any written agreement is made.	Full powers	Full powers	Full Powers for GM (HR) CO	NIL	NIL
8.2	Approval of domestic TA/DA as per rules for office-bearers of	Full powers	Full powers	Full Powers for GM (HR)	NIL	NIL

CERTIFIED TRUE COPY

24/8/2021
अशोक झा
कंपनी सचिव
(ए.सी.एस. 14100)
नेशनल फर्टिलाइजर्स लिमिटेड

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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IN THE MATTER OF:

KAUSHAL KISHORE VISHWAKARMA

...APPLICANT

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

KNOW ALL to whom these presents shall come that I, A.K. Jain, Authorised Representative of the Respondent No.10 do hereby appoint: Sunil Tyagi, Purna Kohli, Sandeep Bhuraria, Pankhuri Jain, Yeshi Rinchen, Vishnu Anand, Neetika Bajaj, Nikita Maheshwari, Anmol Chawla, Akash Yadav, Astha Garg, Pari Bharadwaj, Monish Surendran, Parijat, Naman Dutt, Aditi Pundhir, Deepti Babel, Kopal Mittal at Zeus Law Associates 2, Palam Marg, Vasant Vihar New Delhi-110 057 (hereinafter called the Advocate/s) to be my/our Advocates in the above noted case and authorize them:-

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including High Court subject to payment of fees separately for each Court by me/us.

To sign, file, verify and present pleadings, appeals, cross-objections or petitions for executions review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subject to payment of fees for each stage.

To file and take back documents, to admit and/or deny the documents of the opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive monies, cheques, cash and grant receipts and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and sign the power of attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I/We or my/our duly authorised agents would appear in Court on all hearings and will inform the Advocate for appearance when the case is called.

And I/We the undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain for himself.

And I/We the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us.

IN WITNESS WHEREOF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this 28th day of December, 2023.

Accepted subject to the terms of fees. **IDENTIFIED /SATISFIED/CERTIFIED**

ADVOCATE/s

CLIENT

Fain
D/11548/2023

Aditi
D/1007/2021

Pankhuri
D/1166/2023

A.K. Jain

(ए.के. जैन / A. K. Jain)
कार्यकारी निदेशक / Executive Director
नेशनल फर्टिलाइजर्स लिमिटेड / N.F.L.
नंगल इकाई / Nangal Unit