

**Before the Hon'ble National Green Tribunal
Principal Bench, New Delhi**

Original Application No.620 of 2022

Kaushal Kishore Vishwakarma

--Applicant

Versus

State of Punjab

--Respondent

Reply of Punjab Pollution Control Board in compliance of order dated 28.08.2024 through Er. Ramandeep Singh Sidhu, Environmental Engineer, Regional Office, Bathinda.

Respectfully showeth:

1. That briefly stated the above mentioned case involving the issue of storage and disposal of hazardous waste in violation of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 is pending before this Hon'ble Tribunal.
2. That the Hon'ble National Green Tribunal has noticed in its order dated 08.01.2024 that despite unjustified continued storage of carbon slurry by NFL, Bathinda and also inaction/delay on their part in disposal thereof in accordance with mandatory statutory provisions, no action has been taken by the State Pollution Control Board for imposition of environmental compensation and also prosecution of the defaulting officers/officials. The Hon'ble National Green Tribunal has further directed the Punjab Pollution Control Board vide order dated 28.08.2024 to take further action for imposition of Environmental Compensation on NFL, Bathinda for past violations and recovery thereof in accordance with Law.
3. That it is relevant to brought on record that M/s National Fertilizers Ltd, Sivian Road, Bathinda was granted authorization by the Punjab Pollution Control Board under the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 on 03.10.2023 (valid upto 31.03.2024) for generation, collection, storage and disposal of hazardous waste including



Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda.

- category 18.2 @ 39600 TPA, subject to one of the specific condition that the industry shall ensure lifting of at-least 6400 MT of hazardous waste of cat. 18.2 i.e. carbon slurry by 31.03.2023 and shall completely lift the stored hazardous waste of cat. 18.2 i.e. carbon slurry @ 38257.11 MT by 30.09.2026. The industry was further granted authorization under the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 on 31.3.2024 (valid upto 31.03.2025) for generation, collection, storage and disposal of hazardous waste including category 18.2, subject to specific condition that the industry will ensure to get its hazardous waste of category 18.2 lifted to the authorized re-cycler at the earliest.
4. That considering the facts and circumstances of the case as well as the directions issued by the Hon'ble National Green Tribunal the Board has initiated the process for imposition of Environmental Compensation against NFL, Bathinda after the order dated 08.01.2024 was passed by the Hon'ble National Green Tribunal. Opportunity of hearing was given to NFL, Bathinda on 14.02.2024 for violation of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 with the issuance of notice vide letter no. 816 dated 12.02.2024. In continuation of the earlier action, notice to issue directions u/s 5 of the Environment (Protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 was issued to NFL, Bathinda by the Board vide letter no. 3876 dated 22.08.2024 with an opportunity of hearing before the Chairman of the Board on 02.09.2024. The hearing was postponed to 05.09.2024. A copy of letter no. 3876 dated 22.08.2024 is enclosed as **Annexure-A**.
5. That hearing before the Chairman of the Board was attended on 05.09.2024 by the Smt. Sandhya Batra, DGM (TS) and Sh. Harmesh Lal Thandi (Senior Manager) on behalf of NFL, Bathinda. The officials of the industry submitted written reply to the notice issued by the Board and the reply was taken on record. The officials reiterated the same facts as mentioned in the written reply. A copy of the written reply of NFL, Bathinda is enclosed as **Annexure-B**. After hearing the officials of the NFL, Bathinda, considering the background of the case as well as orders passed by the Hon'ble National Green Tribunal, it was decided by the Chairman the Board as under:
- a) Environmental Engineer, Regional Office, Bathinda shall process the matter regarding calculation carried out for imposition of Environmental Compensation upon the industry in accordance with the law for unjustified continued storage of carbon slurry by the industry and also inaction/delay on their part in disposal thereof,



within 07 days and shall send the same for verification to the Committee constituted by the Board in the matter. Subsequently, the Board shall issue orders for Imposition of Environmental Compensation to the industry for causing environmental damage.

- b) The industry shall also ensure to dispose of its entire hazardous waste of category 18.2 at the earliest possible shortest time by exploring all means available in compliance to the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and shall submit monthly report in the matter to the Regional Office, Bathinda of the Board.
 - c) NFL, Bathinda is directed to give the names of the defaulting officers/officials responsible for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof, to the Regional Office, Bathinda of the Board, within 03 days.
6. That the proceedings of hearing held on 05.09.2024 were conveyed to M/s National Fertilizers Ltd, Sivian Road, Bathinda as well as Environmental Engineer, Regional Office, Bathinda vide letter no. 4162-4163 dated 23.09.2024 by the Board for compliance. A copy of letter no. 4162-4163 dated 23.09.2024 is enclosed as **Annexure-C**.
7. That it is relevant to mention here 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:
- a) The concept of precautionary principle was considered in M.C Mehta versus Union of India and others and vide judgment dated 11.10.1996 and the Hon'ble Supreme Court of India held that the Precautionary Principle has been accepted as a part of the Law of the land.
 - b) 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.
 - c) 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.

8. It is further relevant to mention here that the Hon'ble National Green Tribunal has also 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 the matter of Original Application No. 804/2017 (Earlier O.A. No. 36/2012) With M.A. No. 1302/2018 in Interlocutory Application No. 63 in W. P. (C) No. 657/199; Rajiv Narayan & another Versus Union of India & others With the Research Foundation for Science, Technology and Natural Resource Policy Versus Union of India and others, the Hon'ble National Green Tribunal, Principal Bench, New Delhi directed the Central Pollution Control Board, vide orders dated 12.04.2019, to determine the scale of compensation to be recovered for violation of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The Central Pollution Control Board has accordingly prepared the methodology for calculating financial penalty and compensation for various violations of the provisions of the HOWM Rules, 2016, in cases of the facilities requiring authorization under the said Rules, 2016.

9. That on examination of the entire facts of the case as has been recorded above, it is concluded by the Committee of officers (constituted by the Board for determination of EC on defaulting units) that the activities carried out by M/s National Fertilizers Limited, Bathinda, have caused environmental degradation/damage by intentionally and deliberately violating the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. Thus M/s National Fertilizers Limited, Bathinda has made itself liable for environmental compensation on the basis of the Principle of Precaution, Sustainable development and Polluter Pay's, which according to the methodology and scale evolved by the Central Pollution Control Board and adopted by the Punjab Pollution Control Board has been calculated to be Rupees 11,88,00,000/- (Eleven Crores Eighty-Eight Lakhs only).

10. That Competent Authority of the Board has passed order bearing no. 412 dated 09.10.2024 thereby directing the M/s National Fertilizers Limited, Bathinda through its Chief General Manager (Sh. Tarun Kumar Batra) to deposit an amount of Rs. 11,88,00,000/- (Eleven Crores Eighty-Eight Lakhs only) as environmental compensation with the office of the Punjab Pollution Control Regional Office, Bathinda.



Board for degrading and damaging the environment. A copy of order no. 412 dated 09.10.2024 is enclosed as **Annexure-D**.

11. That the action taken report on behalf of Punjab Pollution Control Board is hereby submitted in compliance to order dated 28.08.2024 for kind perusal and consideration of the Hon'ble Tribunal.

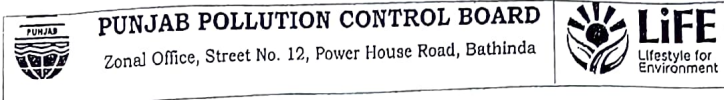
Submitted by



(Ramandeep Singh Sidhu)
Environmental Engineer,
Punjab Pollution Control Board
Regional Office, Bathinda

Date: 11-10-2024

Place: Bathinda



No. 3876

Registered

Dated 22/8/2024

To

M/s National Fertilizers Ltd.,
Sivian Road, Bathinda.

Subject: - Notice to issue directions u/s 5 of Environment (Protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

Whereas, the notice to issue directions u/s 5 of Environment (Protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 was issued to the Industry alongwith an opportunity of personal hearing before the Hon'ble Chairman of the Board on 14.02.2024, wherein, amongst other decisions, it was decided that:-

1. In compliance to the orders of the Hon'ble NGT, the prosecution of the defaulting officers/officials of NFL, Bathinda is approved to be filed the court of law under the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 framed under Environment (Protection) Act, 1986 for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof which has caused environmental damage in the area.
2. NFL, Bathinda is directed to give the names of the defaulting officers/officials responsible for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof, to the Regional Office, Bathinda of the Board, within 07 days.
3. The industry shall also ensure to dispose of its entire hazardous waste of category 18.2 at the earliest possible shortest time by exploring all means available in compliance to the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and shall submit monthly report in the matter to the Regional Office, Bathinda of the Board.

And whereas, it is pertinent to mention here with the case bearing O.A. no. 620/2022 titled as "Kaushik Kumar V/s State of Punjab & others" is pending before the Hon'ble National Green Tribunal, New Delhi and the matter is regarding storage & disposal of hazardous waste of category 18.2 (carbon slurry) in violation to the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The matter was listed for hearing on 13.03.2024, wherein the arguments were heard and the order has been reserved. No next date has been listed on the website.

And whereas, the compliance on behalf of the Industry w.r.t. decisions of the personal hearing dated 14.02.2024 is as under:-

1. The industry has failed to submit the details of the defaulting officers/officials responsible for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal.
2. As per the record provided by the industry, the Industry has lifted the hazardous waste of category 18.2 (carbon slurry) of schedule-I of HOWM Rules, 2016 @ 148.87 MT in Jan 2024, 357.35 MT in March 2024, 618.7 MT in April 2024, 793 MT in May 2024, 703.87 MT in

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Jun 2024 and 484.6 MT in July 2024. At present 3973.73 MT of carbon slurry is still lying in the dykes of the industry and the pace of lifting of the said hazardous waste is very slow.

And whereas, the matter has been considered by the Competent Authority and decided to afford another opportunity of personal hearing u/s 5 of the Environment (Protection) Act, 1986 for violation of the provisions of HOWM Rules, 2016 before Initiating further action w.r.t. the directions already proposed vide Board's letter no. 3809 dated 22.12.2023 & 816 dated 12.02.2024..

As such, you are, hereby, given another opportunity to file objections, if any, on the proposed directions before the Hon'ble Chairman, Punjab Pollution Control Board in his office at Vatavarn Bhawan, Nabha Road, Patiala on 02.09.2024 at 11:00 A.M., failing which, it will be presumed that the industry has nothing to say and further action including confirmation of proposed directions will be Initiated by the Board without giving any further notice / opportunity.

P. Sidhu
22/08/2024
Environmental Engineer (ZB)
For Chairman, PPCB
Dated 22/08/2024

Endst. No 3877

A copy of the above is forwarded to the Environmental Engineer, Punjab Pollution Control Board, Regional Office, Bathinda for information & necessary action. He is requested to intimate the industry regarding date, time & venue of the hearing well before the date of hearing.

P. Sidhu
22/08/2024
Environmental Engineer (ZB)
For Chairman, PPCB

P. Sidhu

Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda.



फर्टिलाइजर्स लिमिटेड

(भारत सरकार का उपक्रम)

बठिंडा इकाई : सिवियॉ रोड, बठिंडा - 151003 पंजाब
दूरभाष : 0164 - 2270220, 2760200
फैक्स : 0164-2270463



A Navratna Company

मि 2 अ 217, एडि
5/9/24



NATIONAL FERTILIZERS LIMITED
(A Govt. of India Undertaking)

Bathinda Unit: Sibian Road, Bathinda - 151003 (Punjab)
Ph: 0164 2270220, 2760200
Fax: 0164-2270463

Ref: NFB/LAB/PPCB/2024

To
Environmental Engineer,
Punjab Pollution Control Board,
Zonal Office, Street No.12,
Power House Road,
Bathinda.

EE 2 B
5/9/2024

Dated: 31.08.2024
5/9/24

5/9/24 (B)
5/9/24 (2B)

5/9/24

Subject: Reg. - Notice to issue directions u/s 5 of Environment (Protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 - M/s National Fertilizers limited, Sibian Road, Bathinda

Dear Sir,

This is in reference to your Letter No. 3876, dated 22.08.2024 regarding directions contained therein. In this respect it is submitted that:

1. NFL had issued Sale Order No. 393 dated 21.06.2022 to M/s Shubham Sales CO., Rohtak for lifting of carbon slurry. The party lifted 1342.89 MT of Carbon slurry in the year 2022-23. M/s Shubham Sales CO. could not lift the entire quantity owing to non-deposition of the requisite amount as per the terms and conditions of Sale Order. Further, M/s Shubham Sales CO. requested for extension of payment schedule vide their letter dated 07.08.2023. In view of proposal received from M/s Shubham Sales, dated 07.08.2023, and upon several discussions and deliberations, NFL, Bathinda issued the Amendment No.1, dated 07.10.2023, as well as the Amendment No.2, dated 04.11.2023, to the Sale Order No.393, for lifting of carbon slurry. Party commenced re-lifting of the carbon slurry on 20.11.2023 and total quantity of Carbon slurry lifted as on 30.08.2024 is 4833.94 MT. 34766.06 MT Carbon slurry is lying in the ponds. Monthly report in this regard is being submitted to RO, PPCB, Bathinda.
2. M/s Shubham Sales CO. confirmed to lift the entire quantity of carbon slurry by 30.09.2024 Also, in terms of the order dated 13.03.2024 passed in the case bearing O.A. no. 620/2022 titled as Kaushal Kishore Vishwakarma Vs State Punjab & Others, an oral undertaking was given by the party to the Hon'ble NGT committing to collect, lift,

कॉरपोरेट कार्यालय : ए-11, सैक्टर-24, नोएडा - 201301 (उ.प.). दूरभाष : 0120-2412383, फैक्स : 0120-2412384
Corporate Office : A-11, Sector - 24, Noida - 201301 (UP), Tel: 0120-2412383, Fax: 0120 - 2412384

निकेत कार्यालय : स्कोप कॉम्प्लेक्स, कोर - III, 7, इन्स्टिट्यूशनल एरिया, लोधी रोड, नई दिल्ली - 110003, दूरभाष: 011-24361252, फैक्स: 011-24361553
Regd. Office : Scope Complex Core - III, 7, Institutional Area, Lodhi Road, New Delhi - 110003, Tel: 011-24361252, Fax: 011-24361553
CIN : 174899DL1974GO1007417 Website : <http://www.nationalfertilizers.com> | @nationalfertilizers

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Punjab Pollution Control Board
Regional Office, Bathinda



transport and utilize the entire quantity of Carbon Slurry lying in NFL premises by 30.09.2024.

3. NFL has also made all efforts to support the Party to lift the entire material on or before 30.09.2024, within the committed time, by allowing the party:
 - (i) To lift the material on Sundays/ Holidays also
 - (ii) Giving extra lifting hours for lifting of material
 - (iii) Allowing the Party to segregate the material at carbon ponds by mechanical means (i.e. by using Trommel machine and a covered rotary screen etc.)
4. The Party vide its letter dated 29.07.2024 has informed that besides some problems to store the lifted material and difficulty to match the cash flow, Ponds No. 1 & 2 will be handed over by 30.09.2024 after lifting the material. Further, they have requested for an extension of 12 months from 30.09.2024 to 30.09.2025 to lift the material from Pond No 6A (Copy of letter attached). With reference to Party's commitment and reaffirmation to lift the entire quantity of carbon Slurry by 30.09.2024, NFL had not acceded to the request of the party. Since the commitment/undertaking has been given by the party to Hon'ble NGT, the proper authority to grant extension would be Hon'ble NGT (Copy enclosed).
5. To comply with the directions of the Hon'ble Chairman of the Board on 27.12.2023 in personal hearing for Bathinda Unit u/s 5 of Environment (protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) rules, 2016 to conduct study of environmental damage (if any) from a Technical Institute/Chartered Institute approved by the Board, Environment Assessment Study has been conducted by Maharaja Ranjit Singh Punjab Technical University (MRSPTU), Bathinda, the only institute approved by Punjab Pollution Control Board. The Environment Assessment team of MRSPTU collected Ground water samples from NFL Plant and its vicinity and Carbon slurry samples from different locations of 3 Nos. Carbon Slurry Ponds.

The groundwater quality assessment was conducted by MRSPTU to evaluate the current groundwater condition in the NFL and the vicinity area, focusing on its suitability for drinking and other uses, based on the comprehensive analysis of various water quality parameters, including pH, dissolved Oxygen, turbidity, Nitrate and presence of any harmful contaminants, heavy metals like Copper, Chromium, Cadmium, Zinc, Iron and Nickel. As per the findings of Environment Assessment Report, groundwater in the area is safe for consumption and poses no health risks at all. Furthermore, the water quality parameters align well with national and International standards for drinking water quality, reflecting effective natural filtration and minimal anthropogenic impact.

Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda



The samples of carbon slurry collected from the Carbon slurry ponds were assayed for Heavy Metals and other Compounds by MRSPTU. Toxicity Characteristic Leaching Procedure (TCLP) test was also conducted to determine the leachability potential of the metals present in the Carbon Slurry into the Ground water. As per the report of Carbon Slurry samples, it is observed that all the parameters are within the prescribed limits.

The Environment Assessment Study conducted by MRSPTU explicitly indicates that there is no damage to the environment by storing the Carbon Slurry in Ponds by NFL. The detailed report submitted by MRSPTU is attached herewith.

6. Position regarding the generation of Carbon slurry, declaration of Carbon Slurry as hazardous waste, NFL's commitment for its safe disposal and all measures / steps taken for its safe storage and disposal had already been explained in our earlier letter NFLB/LAB/PPCB/2024 dtd 13.02.2024 (copy attached) and also during personal hearing held on 14.02.2024. Same are not reiterated for the sake of brevity. It is further submitted that the entire process leading to the safe disposal of the Carbon Slurry since 2013 comprises the working of various departments of the organisation in a specified hierarchy and no individual officer can be held liable for any of the contraventions of the provisions of Environmental Act 1986. All the efforts have been diligently made by all the officers of NFL in good faith for the safe disposal of Carbon Slurry from its premises.
7. In view of the above explained facts and circumstances, NFL stands committed for safe disposal of the Carbon Slurry and all the measures have been taken for its safe storage at the premises. Further, it can fairly be established that all the efforts done since 2013, which have been taken by the officials of the NFL conscientiously are in good faith and thus do not attract any legal action against any officer of NFL, whatsoever, in terms of the provisions of the Act and no individual officers should be held liable for any of the contraventions of the provisions of the EP Act 1986.

We assure you that NFL is committed to comply with all statutory provisions of Hazardous and other Waste (Management & Transboundary Movement) Rules, 2016.

Your good self is therefore requested that notice under reference may be withdrawn.

Yours Truly,

For National Fertilizers Limited, Bathinda

Ravi
31/02/24

P. Singh

Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda.



No. 4162

Registered

Dated 23/9/2024

To

M/s National Fertilizers Ltd.,
Sivian Road, Bathinda.

Subject: Proceedings of the personal hearing given to M/s National Fertilizers Ltd., Sivian Road, Bathinda u/s 5 of Environment (Protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 by the Chairman on 05.09.2024.

The following were present:**From Board's side:**

Er. G.S. Majithia, Member Secretary
Er. Rajeev Goyal, CEE (B)
Er. Rakesh Kumar, SEE, ZO, Bathinda
Er. Ruby Sidhu, EE, ZO, Bathinda.

From industry side:

Smt. Sandhya Batra, DGM (TS)
Sh. Harmesh Lal Thandi (Sr. Manager)

It was brought out that the industry was granted authorization under the provisions of the HOWM Rules, 2016 on 03.10.2023 (valid upto 31.03.2024) for generation, collection, storage & disposal of hazardous waste including category 18.2 @ 39600 TPA, subject to one of the specific condition that the industry shall ensure lifting of at-least 6400 MT of hazardous waste of cat. 18.2 i.e. carbon slurry by 31.03.2023 and shall completely lift the stored hazardous waste of cat. 18.2 i.e. carbon slurry @ 38257.11 MT by 30.09.2026.

The site of the industry was visited by the officer of the Board on 25.10.2023 and it was observed that huge quantity approx. 53100 MT of hazardous waste i.e. carbon slurry (category 18.2 of schedule-I of HOWM Rules, 2016) was found stored in its premises and it has failed to get it lifted to an authorized recycler till date in violation to the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

The industry failed to ensure the compliance of the special condition imposed in the authorization granted to it under the HOWM Rules, 2016.

The industry was issued show cause notice for revocation of authorization granted to it under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 alongwith an opportunity of personal hearing before the Chairman of the Board on 20.11.2023, which was attended by the DGM of the industry who stated that no Carbon slurry has been generated by the industry since 2013 and sale order for lifting of Carbon slurry (category 18.2) of 39600 MT has been issued to M/s Shubham Sales (authorized recycler) on 08.11.2023 and lifting of the said hazardous waste shall begin shortly.

It is pertinent to mention here that the case bearing OA no. 620/2022 titled as "Kaushik Kumar v/s State of Punjab & others" is pending before the Hon'ble National Green Tribunal, New Delhi. The matter was listed for hearing on 08.01.2024 & the Hon'ble Tribunal in its order has directed the PPCB to initiate appropriate proceedings for imposition of

Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda.

environmental compensation & prosecution of the defaulting officers/officials in accordance with the law for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof.

Notice to issue directions u/s 5 of Environment (Protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 was issued to the industry alongwith an opportunity of personal hearing before the Hon'ble Chairman of the Board on 14.02.2024, wherein, amongst other decisions, it was decided that:-

1. In compliance to the orders of the Hon'ble NGT, the prosecution of the defaulting officers/officials of NFL, Bathinda is approved to be filed the court of law under the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 framed under Environment (Protection) Act, 1986 for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof which has caused environmental damage in the area.
2. NFL, Bathinda is directed to give the names of the defaulting officers/officials responsible for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof, to the Regional Office, Bathinda of the Board, within 07 days.
3. The industry shall also ensure to dispose of its entire hazardous waste of category 18.2 at the earliest possible shortest time by exploring all means available in compliance to the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and shall submit monthly report in the matter to the Regional Office, Bathinda of the Board.
4. Environmental Engineer, Regional Office, Bathinda shall calculate the amount of Environmental Compensation to be imposed upon the industry in accordance with the law for unjustified continued storage of carbon slurry by the industry and also inaction/delay on their part in disposal thereof, within 07 days and shall send the same for verification to the Committee constituted by the Board for Imposition of Environmental Compensation. Subsequently, the Board shall issue orders for Imposition of Environmental Compensation to the industry for causing environmental damage.

The matter in the case bearing O.A. no. 620/2022 was listed for hearing before the Hon'ble National Green Tribunal, New Delhi on 13.03.2024, wherein the arguments were heard and the order has been reserved. No next date has been listed on the website.

The compliance reported by the Regional Office w.r.t. decisions of the personal hearing dated 14.02.2024 is as under:-

1. The industry has failed to submit the details of the defaulting officers/officials responsible for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal.
2. As per the record provided by the industry, the industry has lifted the hazardous waste of category 18.2 (carbon slurry) of schedule-I of HOWM Rules, 2016 @ 148.87 MT in Jan 2024, 357.35 MT in March 2024, 618.7 MT in April 2024, 793 MT in May 2024, 703.87 MT in Jun 2024 and 484.6 MT in July 2024. At present 34973.73 MT of carbon slurry is still lying in the dykes of the industry and the pace of lifting of the said hazardous waste is very slow.
3. The Regional Office, Bathinda calculated the amount of Environmental Compensation as Rs. 11.88 crore and it has been opinioned by the Senior Law Officer of the Board that the Board



Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda.

may keep the decision pending for the time being in view of the facts that the Hon'ble NGT has reserved the order dated 13.03.2024 in O.A. no. 620 of 2022 and the Board may take further action after the order of the Hon'ble NGT is made available. The opinion of the Senior Law Officer of the Board was concurred by the Hon'ble Chairman of the Board.

The Competent Authority of the Board has decided to afford another opportunity of personal hearing u/s 5 of the Environment (Protection) Act, 1986 to the Industry for violation of the provisions of HOWM Rules, 2016 before initiating further action.

Another opportunity of personal hearing has been afforded to the Industry u/s 5 of Environment (Protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 before the Chairman of the Board on 05.09.2024.

The hearing was attended by the officials of the Industry who submitted written reply to the notice issued to it, which has been taken on record. They further stated that:-

1. NFL had issued Sale Order No. 393 dated 21.06.2022 to M/s Shubham Sales CO., Rohtak for lifting of carbon slurry. The party lifted 1342.89 MT of Carbon slurry in the year 2022-23. M/s Shubham Sales CO. could not list the entire quantity owing to non-deposition of the requisite amount as per the terms and conditions of Sale Order. Further, M/s Shubham Sales CO. requested for extension of payment schedule vide their letter dated 07.08.2023. In view of proposal received from M/s Shubham Sales, dated 07.08.2023, and upon several discussions and deliberations, NFL, Bathinda issued the Amendment No.1, dated 07.10.2023, as well as the Amendment No.2, dated 04.11.2023 to the Sale Order No.393, for lifting of carbon slurry. Party commenced re-lifting of the carbon slurry on 20.11.2023 and total quantity of Carbon slurry lifted as on 30.08.2024 is 4833.94 MT. 34766.06 MT Carbon slurry is lying in the ponds. Monthly report in this regard is being submitted to RO. PPCB, Bathinda.
2. M/s Shubham Sales CO. confirmed to lift the entire quantity of carbon slurry by 30.09.2024 Also, in terms of the order dated 13.03.2024 passed in the case bearing O.A. no. 620/2022 titled as Kaushal Kishore Vishwakarma Vs State Puniab & Others, an oral undertaking was given by the party to the Hon'ble NGT committing to collect lift transport and utilize the entire quantity of Carbon Slurry lying in NFL premises by 30.09.2024.
3. NFL has also made all efforts to support the Party to lift the entire material on or before 30.09.2024, within the committed time, by allowing the party:
 - (i) To lift the material on Sundays/ Holidays also
 - (ii) Giving extra lifting hours for lifting of material
 - (iii) Allowing the Party to segregate the material at carbon ponds by mechanical means (i.e. by using Trommel machine and a covered rotary screen etc.)
4. The Party vide its letter dated 29.07.2024 has informed that besides some problems to store the lifted material and difficulty to match the cash flow, Ponds No. 1 & 2 will be handed over by 30.09.2024 after lifting the material. Further, they have requested for an extension of 12 months from 30.09.2024 to 30.09.2025 to lift the material from Pond No 6 A. With reference to Party's commitment and reaffirmation to lift the entire quantity of carbon Slurry by 30.09.2024, NFL had not acceded to the request of the party. Since the



Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda.

commitment/undertaking has been given by the party to Hon'ble NGT, the proper authority to grant extension would be Hon'ble NGT.

5. To comply with the directions of the Hon'ble Chairman of the Board on 27.12.2023 in personal hearing for Bathinda Unit u/s 5 of Environment (protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) rules, 2016 to conduct study of environmental damage (if any) from a Technical Institute/Chartered Institute approved by the Board, Environment Assessment Study has been conducted by Maharaja Ranjit Singh Punjab Technical University (MRSPTU), Bathinda, the only institute approved by Punjab Pollution Control Board. The Environment Assessment team of MRSPTU collected Ground water samples from NFL Plant and its vicinity and Carbon slurry samples from different locations of 3 Nos. Carbon Slurry Ponds. The Environment Assessment Study conducted by MRSPTU explicitly indicates that there is no damage to the environment by storing the Carbon Slurry in Ponds by NFL. The detailed report submitted by MRSPTU is attached herewith.
6. Position regarding the generation of Carbon slurry, declaration of Carbon Slurry as hazardous waste, NFL's commitment for its safe disposal and all measures / steps taken for its safe storage and disposal had already been explained in our earlier letter NFLB/LAB/PPCB/2024 dtd. 13.02.2024 and also during personal hearing held on 14.02.2024. Same are not reiterated for the sake of brevity. It is further submitted that the entire process leading to the safe disposal of the Carbon Slurry since 2013 comprises the working of various departments of the organization in a specified hierarchy and no individual officer can be held liable for any of the contraventions of the provisions of Environmental Act 1986. All the efforts have been diligently made by all the officers of NFL in good faith for the safe disposal of Carbon Slurry from its premises.
7. In view of the above explained facts and circumstances, NFL stands committed for safe disposal of the Carbon Slurry and all the measures have been taken for its safe storage at the premises. Further, it can fairly be established that all the efforts done since 2013, which have been taken by the officials of the NFL conscientiously are in good faith and thus do not attract any legal action against any officer of NFL, whatsoever, in terms of the provisions of the Act and no individual officers should be held liable for any of the contraventions of the provisions of the EP Act 1986.

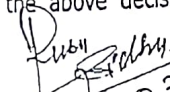
The matter was deliberated during the hearing that the Hon'ble NGT vide its order dated 08.01.2024 has directed the PPCB to initiate appropriate proceedings for imposition of environmental compensation & prosecution of the defaulting officers/officials in accordance with the law for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof. Subsequently, in the hearing dated 14.02.2024, the industry was directed to give the names of the defaulting officers/officials responsible for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof, to the Regional Office, Bathinda of the Board, within 07 days, which the industry has failed to submit till date. Also, the pace regarding lifting of hazardous waste of category 18.2 of schedule-I of HOWM Rules, 2016 is very slow as only 4833.94 MT of the said hazardous waste has been got lifted by 30.08.2024. The industry has failed to comply with the decisions of the personal hearing dated 14.02.2024.



After hearing the officials of the industry and the officers of the Board, the chairman of the Board decided that:-

1. Environmental Engineer, Regional Office, Bathinda shall process the matter regarding calculation carried out for imposition of Environmental Compensation upon the industry in accordance with the law for unjustified continued storage of carbon slurry by the industry and also inaction/delay on their part in disposal thereof, within 07 days and shall send the same for verification to the Committee constituted by the Board in the matter. Subsequently, the Board shall issue orders for Imposition of Environmental Compensation to the industry for causing environmental damage.
2. The industry shall also ensure to dispose of its entire hazardous waste of category 18.2 at the earliest possible shortest time by exploring all means available in compliance to the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and shall submit monthly report in the matter to the Regional Office, Bathinda of the Board
3. NFL, Bathinda is directed to give the names of the defaulting officers/officials responsible for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof, to the Regional Office, Bathinda of the Board, within 03 days.

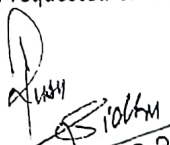
You are requested to ensure the compliance of the above decisions of the personal hearing.


 Environmental Engineer (ZB)
 For Chairman, PPCB

Dated 23/9/2024

Endst. No. 4163

A copy of the above is forwarded to the Environmental Engineer, Punjab Pollution Control Board, Regional Office, Bathinda for information and requested to ensure the compliance of decision of hearing within stipulated period.


 Environmental Engineer (ZB)
 For Chairman, PPCB


 Environmental Engineer
 Punjab Pollution Control Board
 Regional Office, Bathinda



ਪੰਜਾਬ ਪ੍ਰਦੂਸ਼ਣ ਕੰਟਰੋਲ ਬੋਰਡ
PUNJAB POLLUTION CONTROL BOARD

No. 412.....

Dated. 09/10/2024

Subject: Imposition of Environmental Compensation (EC) for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 upon M/s National Fertilizers Limited, Bathinda

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 Punjab Pollution Control Board being the statutory regulatory authority is implementing the provisions of the above-mentioned statutes in the State of Punjab.

2) The Punjab Pollution Control Board being the statutory regulatory authority is continuously pursuing M/s National Fertilizers Ltd, Sivian Road, Bathinda who is engaged in the manufacturing of Urea and pesticides to comply with the provisions of various Environmental Laws and in this regard the officers of the Board are visiting and inspecting the project site from time to time in order to ensure the compliance of Law.

3) That Mr. Kaushal Kishore Vishwakarma, a labourer working with M/s National Fertilizers Ltd, Sivian Road, Bathinda has petitioned the Hon'ble National Green Tribunal complaining about violation of environmental norms by M/s National Fertilizers Ltd, Bathinda in handling of carbon and hazardous waste. The applicant prayed for taking appropriate steps for saving the lives of the laborers and protection and improvement of the environment. The letter petition was treated as Original Application No. 620 of 2022

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[Signature]

Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda.

ਵਾਤਾਵਰਣ ਭਵਨ, ਨਾਭਾ ਰੋਡ, ਪਟਿਆਲਾ-147001
Vatavaran Bhawan, Nabha Road, Patiala -147001

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by the Hon'ble National Green Tribunal titled as Kaushal Kishore Vishwakarma v/s State of Punjab and others.

- 4) The case involves the issue of storage and disposal of hazardous waste in violation of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.
- 5) The brief facts of the case which came to the fore after submission of the reply by NFL, Bathinda before the Hon'ble National Green Tribunal in OA No. 620 of 2022 are that NFL, Bathinda started the commercial production in the year 1979. The industry used Fuel Oil ("FO") / Low Sulphur Heavy Stock ("LSHS") as feedstock for the production of Urea from 1979 till November, 2012. 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 1350 degrees Celsius. During the partial oxidation of Fuel Oil, which was an energy-intensive process, carbon was generated due to inevitable thermal cracking. 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. 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. In an endeavour to keep in pace with clean technology and with a commitment to sustainable development, the Plant were restructured in November, 2012. The feedstock was replaced from LSHS to Natural Gas, which not only reduced the specific energy per metric ton 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. As a result, there was no generation of carbon slurry at the Plant since 2012. It is stated that leftover carbon slurry amounting to approximately 53100 metric ton was stored in NFL, Bhatinda in the designated carbon slurry ponds. It was stated in the reply that the carbon slurry has been stored after following all the rules, regulations, guidelines and taking all necessary precautions.

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The reply filed by M/s National Fertilizers Ltd, Bathinda before the Hon'ble National Green Tribunal has revealed that huge quantity of carbon slurry, which was earlier considered to be a by-product of manufacturing of Fertilizer by NFL but now falls within the definition of hazardous waste under the said Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 is stored by NFL, Bathinda.

- 6) That it is relevant to mention here that In exercise of the powers conferred under the Environment (Protection) Act, 1986, the Ministry of Environment, Forest and Climate Change, Government of India has notified the Hazardous Waste (Management and Transboundary Movement) Rules, 2016 vide notification no. GSR no. 395 (E) dated 04.04.2016. Under the said rules, the carbon residue in production of nitrogenous and complex fertilizers has been categorized as "Hazardous Waste" under Category 18.2 of Schedule - I.
- 7) The Hon'ble National Green Tribunal has noticed in its order dated 08.01.2024 that despite unjustified continued storage of carbon slurry by NFL, Bathinda and also inaction/delay on their part in disposal thereof in accordance with mandatory statutory provisions, no action has been taken by the State Pollution Control Board for imposition of environmental compensation and also prosecution of the defaulting officers/officials. The Hon'ble National Green Tribunal has further directed the Punjab Pollution Control Board vide order dated 28.08.2024 to take further action for imposition of Environmental Compensation on NFL, Bathinda for past violations and recovery thereof in accordance with Law.

- 8) That it is relevant to brought on record that M/s National Fertilizers Ltd, Sivian Road, Bathinda was granted authorization by the Punjab Pollution Control Board under the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 on 03.10.2023 (valid upto 31.03.2024) for generation, collection, storage and disposal of hazardous waste including category 18.2 @ 39600 TPA, subject to one of the specific condition that the industry shall ensure lifting of at-least 6400 MT of hazardous waste of cat. 18.2 i.e. carbon slurry by 31.03.2023 and



PUNJAB POLLUTION CONTROL BOARD

shall completely lift the stored hazardous waste of cat. 18.2 i.e. carbon slurry @ 38257.11 MT by 30.09.2026.

9) That considering the facts and circumstances of the case as well as the directions issued by the Hon'ble National Green Tribunal the Board has initiated the process for imposition of Environmental Compensation against NFL, Bathinda after the order dated 08.01.2024 was passed by the Hon'ble National Green Tribunal. Opportunity of hearing was given to NFL, Bathinda on 14.02.2024 for violation of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 with the issuance of notice vide letter no. 816 dated 12.02.2024. In continuation of the earlier action, notice to issue directions u/s 5 of the Environment (Protection) Act, 1986 for violation of the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 was issued to NFL, Bathinda by the Board vide letter no. 3876 dated 22.08.2024 with an opportunity of hearing before the Chairman of the Board on 02.09.2024. The hearing was postponed to 05.09.2024.

10) That hearing before the undersigned Chairman of the Board was attended on 05.09.2024 by the Smt. Sandhya Batra, DGM (TS) and Sh. Harmesh Lal Thandi (Senior Manager) on behalf of NFL, Bathinda. The officials of the industry submitted written reply to the notice issued by the Board and the reply was taken on record. The officials reiterated the same facts as mentioned in the written reply. After hearing the officials of the NFL, Bathinda, considering the background of the case as well as orders passed by the Hon'ble National Green Tribunal, it was decided by the undersigned Chairman that:

- a) Environmental Engineer, Regional Office, Bathinda shall process the matter regarding calculation carried out for imposition of Environmental Compensation upon the industry in accordance with the law for unjustified continued storage of carbon slurry by the industry and also inaction/delay on their part in disposal thereof, within 07 days and shall send the same for verification to the Committee constituted by the Board in the matter. Subsequently, the Board shall issue orders for imposition of Environmental Compensation to the industry for causing environmental damage.

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Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda.



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- b) The Industry shall also ensure to dispose of its entire hazardous waste of category 18.2 at the earliest possible shortest time by exploring all means available in compliance to the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and shall submit monthly report in the matter to the Regional Office, Bathinda of the Board.
- c) NFL, Bathinda is directed to give the names of the defaulting officers/officials responsible for unjustified continued storage of carbon slurry by the industry and also in action/delay on their part in disposal thereof, to the Regional Office, Bathinda of the Board, within 03 days.

The proceedings of hearing held on 05.09.2024 were conveyed to M/s National Fertilizers Ltd, Sivian Road, Bathinda as well as Environmental Engineer, Regional Office, Bathinda vide letter no. 4162-4163 dated 23.09.2024 by the Board for compliance.

11) That it is relevant to mention here 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:

- a) The concept of precautionary principle was considered in M.C Mehta versus Union of India and others and vide judgment dated 11.10.1996 and the Hon'ble Supreme Court of India held that the Precautionary Principle has been accepted as a part of the Law of the land.
- b) 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.

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- c) 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 Citzens 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.

12) It is further relevant to mention here that the Hon'ble National Green Tribunal has also 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 the matter of Original Application No. 804/2017 (Earlier O.A. No. 36/2012) With M.A. No. 1302/2018 in Interlocutory Application No. 63 in W. P. (C) No. 657/199; Rajiv Narayan & another Versus Union of India & others With the Research Foundation for Science, Technology and Natural Resource Policy Versus Union of India and others, the Hon'ble National Green Tribunal, Principal Bench, New Delhi directed the Central Pollution Control Board, vide orders dated 12.04.2019, to determine the scale of compensation to be recovered for violation of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The Central Pollution Control Board has accordingly prepared the methodology for calculating financial penalty and compensation for various violations of the provisions of the HOWM Rules, 2016, in cases of the facilities requiring authorization under the said Rules, 2016.

13) On examination of the entire facts of the case as has been recorded above, it is concluded by the Committee of officers (constituted by the Board for determination of EC on defaulting units) that the activities carried out by M/s National Fertilizers Limited, Bathinda, have caused environmental degradation/ damage by intentionally and deliberately violating the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. Thus M/s National Fertilizers Limited,



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Bathinda has made itself liable for environmental compensation on the basis of the Principle of Precaution, Sustainable development and Polluter Pay's, which according to the methodology and scale evolved by the Central Pollution Control Board and adopted by the Punjab Pollution Control Board has been calculated to be Rupees 11,88,00,000/- (Eleven Crores Eighty-Eight Lakhs only).

14) Therefore, M/s National Fertilizers Limited, Bathinda through its Chief General Manager (Sh. Tarun Kumar Batra) is hereby directed to deposit an amount of Rs. 11,88,00,000/- (Eleven Crores Eighty-Eight Lakhs only) as environmental compensation with the office of the Punjab Pollution Control Board for degrading and damaging the environment 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.

15) 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, Bathinda is directed to ensure compliance of directions issued by the Board.

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

Environmental Engineer
Punjab Pollution Control Board
Regional Office, Bathinda.