



National Green Tribunal

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1	REPLY- REPORT.pdf	Kashmira Stone Crusher	PUNE (WESTERN ZONE BENCH)	Reply

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE AT PUNE

ORIGINAL APPLICATION NO.8 OF 2018 (WZ)

BETWEEN:

Prakash Virsingh Adhe & Anr.

... Applicants

VERSUS

M/s. Kashmiria Stone Crusher & ORS

... Respondents

REPLY OF RESPONDENT NO.1**M/s. Kashmiria Stone Crusher to the Affidavit filed by Respondent****Nos.8 & 9****MAY IT PLEASE THE HON'BLE TRIBUNAL**

1. The present Reply is being filed on behalf of M/s. Kashmiria Stone Crusher, Respondent No.1 (hereinafter referred to as "Respondent No. 1") in the captioned Application. Respondent No.1 is represented through its proprietor Mrs. Sheela Ramrao Pawar who is authorized to sign on behalf of Respondent No.1. Respondent No.1 reserves its right to file a detailed Affidavit at a later stage if required. At the very outset, the Respondent denies all the allegations and averments raised by the Applicant in the present Application filed under the provisions of Section 14 of the National Green Tribunal Act, 2010 (hereinafter referred to as the said Act), the same being false, baseless and frivolous and are denied by the Respondent unless specifically admitted by the Respondent herein.
2. The Respondent No.1 is in receipt of Affidavit of Mr. Pravin Joshi, dated 25th July 2020 and connected documents. At the outset, the Respondent No.1 states that it is filing this affidavit for the limited purpose of setting out its objections to the Affidavit. The Answering Respondent does not admit that it is responsible for payment of compensation in terms of the order dated 29th June 2020. The Answering Respondent states that it is reserving its right and liberty to seek appropriate remedy against the findings recorded in the said order dated 29th June 2020. The present affidavit is being filed without prejudice to the said right of the Answering Respondent. The Respondent No.8 vide its notice dated 25th July 2020 has directed the Respondent No.1 to pay an amount of Rs.9,37,500/- as Environmental Compensation.

3. The Answering Respondent states that the Report does not correctly apply the formula as set out in the order dated 19.02.2019 of the Hon'ble Tribunal in OA No.593/2017. In terms of the said order, the formula for calculation of the environmental compensation is provided as under:

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

In the above formula,

EC	Environmental Compensation in rupees.
PI	Pollution Index
N	Number of days the violation has taken place
R	Factor of Environmental Compensation in rupees
S	Factor of Scale of operation of industrial unit
LF	Location Factor

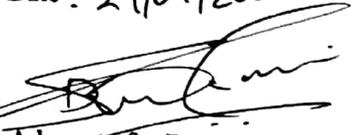
4. The Answering Respondent states that while considering the number of violation days as 150, which is incorrect. The Respondent No.1 was in receipt of the proposed directions dated 30th July 2018. The Respondent No.1 vide its reply dated 13th August 2018 had reported compliance and the same has been accepted by the Respondent No.8. The Respondent No.8, did not pay any heed to the response submitted to them and only managed to visit the Respondent No.1 on 30th November 2018. The Respondent No.1 cannot be faulted for the delayed visit of the Respondent No.8 as the Respondent No.1 had duly notified the compliance on 13th August 2018.
5. The Respondent no.1 submits that the remaining work as stated in letter dated 13th August 2018 was duly completed by the Respondent no. 1 and the same was duly intimated to Respondent no. 8 vide its letter 05th September 2018. The letter has been duly received by the Respondent no. 8. Copy of the said letter has been annexed hereto and marked as ANNEXURE – A-1. Secondly, the Respondent No.8 in its affidavit dated 25th February 2019 have recorded that they are in receipt of the letter dated 25th September 2018 and also that of the District Agriculture Superintendent dated 11th November 2018 which clearly states that there has been no loss or adverse impact on the animals and crops nearby. The said letters suffice that the allegations levelled by the Applicant are totally false and thus the Application has been filed with an ulterior motive. The Respondent No.1, thus fails to understand that on what basis has the Respondent No.8 calculated the Environmental Compensation. This is an apparent flaw in the application of the formula.
6. The Answering Respondent states that the Affidavit proceeds on a premise that the Answering Respondent is the contributor to the pollution. As stated earlier the Respondent No.8 has recorded that the Respondent No.1 had reported compliance vide its reply dated 13th August 2018 and 5th September 2018 to the Proposed Directions dated 30th July 2018. The Authorities have already stated that there has been no loss to human habitation and the crops. This aspect

appears to have been overlooked by the Respondent Authority while submitting the subject report.

7. The Answering Respondent states that the determination made by the Respondent MPCB is, therefore, incorrect. The Hon'ble Tribunal be thus pleased to direct that the Respondent No.1 is not liable to pay the Environmental Compensation as the same is without any basis and justification.

Pune

Date : 29/07/2020



Advocate for Respondent No.1

VERIFICATION

I, Sheela Ramrao Pawar, the Proprietor of the Respondent No.1, do hereby state on solemn affirmation that whatever stated hereinabove is true and correct to the best of my knowledge, information and belief.

Solemnly affirmed at Pune on this 29th day of July 2020.



Sheela Ramrao Pawar

Deponent

कश्मीरा स्टोन क्रेशर**मानमोडी रोड, मालेगाव ता. जितूर जि. परभणी**

☎(02457) 221315, Mo. 9767146839, 9922531258

जा.क्र.

दि. 5/9/2018

To,

The Regional Officer,
Maharashtra Pollution Control Board,
Paryavaran Bhavan, A-4/1, MIDC,
Chikalthana, Behind Dainik Lokpatra,
Behind Seth Nandlal Dhoot Hospital,
Jalna Road, Aurangabad - 431210.

Subject: Reply to Proposed Directions u/s 33A of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 31A of the Air (Prevention & Control of Pollution) Act, 1981.

Reference: Your Letter No. MPCB/ROA/PD/1026/2018 Dated 30/07/2018.

Respected Sir,

In Continuation to our letter dated 13th Aug 2018 we would like to inform you as under:-

1. As Inform vide letter dated 13th Aug 2018 the work of wind breaking wall is complete and the photographs for that effect is attached hereto for your reference.
2. The work of metallic road is also complete and photographs to that effect are attached hereto for your reference. Therefore the discrepancies pointed by your good office vide letter dated 13th Aug 2018 has been duly complied by us and informed you vide our present letter and letter dated 13th Aug 2018.
3. We therefore request you schedule a visit to our plant to record the compliance done by us.
4. We also request you to record your satisfaction and also request you to withdraw the proposed directions dated 30th July 2018.



For Kashmiria Stone Crusher

Copy Submitted To-

1. The Collector, Parabhani. [You are also requested to visit the plant to record the Compliance done by us]
2. Tahasildar, Jintur.



कश्मीरा स्टोन क्रेशर

मानमोडी रोड, मालेगाव ता. जितूर जि. परभणी

(02457) 221315, Mo. 9767146839, 9922531258

The Regional Officer,
जा. Maharashtra Pollution Control Board,
Paryavaran Bhavan, A-4/1, MIDC,
Chikalhana, Behind Dainik Lokpatra,
Behind Seth Nandalal Dhoot Hospital,
Jalna Road. Aurangabad - 431210.

date. 28/07/2020

दि. / / 20

Subject: Reply to letter regarding Environmental Compensation.

Reference: Your Letter No.MPCB/ROA/DIREC/912/2020 Dated 25/07/2020.

Sir,

The Unit is in receipt of your afore-captioned letter and would like to reply as under: -

1. At the outset the Unit submits that the Unit undertakes and will fully abide by the Consent Conditions in respect of the consent dated 12th May 2017.
2. Vide the aforementioned letter, you have directed the Unit to pay an amount of Rs.9,37,500/-, which is totally arbitrary and unilateral and not in accordance with the record. The Unit states that while considering the number of violation days as 150, which is incorrect. The Unit was in receipt of the proposed directions dated 30th July 2018. The Unit vide its reply dated 13th August 2018 and 5th September 2018 had reported compliance with photographs and the same has been accepted by your office.
3. Secondly, you are in receipt of the letter dated 25th September 2018 from the Animal Husbandry Department and also that of the District Agriculture Superintendent dated 11th November 2018 which clearly states that there has been no loss or adverse impact on the animals and crops nearby. The said letters suffice that the allegations levelled by Mr.Adhe. The Unit, thus fails to understand that on what basis has your office has calculated the Environmental Compensation. This is an apparent flaw in the application of the formula.
4. Even the NGT vide it's order dated 29th June 2020 has not directed to levy Environmental Compensation. The said act on your part is unilateral and arbitrary. It can cause tremendous damage to the functioning of the unit as you are well aware that the unit is closed for last 2 years
5. We therefore request you to kindly take into consideration of the aforesaid facts and withdraw the said notice.

Attachment :

1. Copy of Letter submitted by me on 13/08/2018 and 05/09/2018
2. Photographs.



Kashmira stone crusher

कश्मीरा स्टोन क्रेशर
Signatory

प्रोपायटर

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