

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

**Appeal No.50/2024**

**IN THE MATTER OF:**

National Fertilizers Limited

Appellant

Versus

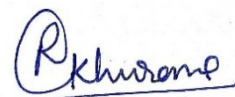
Haryana State Pollution Control Board & Ors. Respondent(s)

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**Date: 18.01.2025**

**Place: Panipat**



Through

**Rahul Khurana, Advocate**

**A-174, 3rd Floor, Defence Colony**

**New Delhi, 09811894060**

[rkhuranalegal@gmail.com](mailto:rkhuranalegal@gmail.com)

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

Appeal No.50/2024

IN THE MATTER OF:

National Fertilizers Limited

Appellant

Versus

Haryana State Pollution Control Board & Ors. Respondent(s)

**REPLY ON BEHALF OF RESPONDENT NO.1**

1. That present appeal has been filed by the appellant against the order dated 24/10/2024 issued for imposition of Environment Compensation of Rs.35,84,19,300/- for violating with the provision of HOWM Rule, 2016. Present reply is being filed through Regional Officer, HSPCB, Panipat who is authorized and competent to file the same. It is humbly submitted that liberty is being craved to file the additional reply with the permission of this Hon'ble Tribunal, as and well need arise.
2. That appellant has filed present appeal raising certain questions response to which are as under:-
  - i. Which specific provision of the HOWM Rules, 2016 has the Appellant violated;

**Response:-**

It is submitted that the unit was found violating with the Rule-8 of HOWM Rules, 2016 which states that :-

*"the occupiers of facilities may store the hazardous and other waste for a period not exceeding ninety days and shall maintain a record of sale, transfer, storage, recycling, recovery, pre-processing, co-processing and utilization of such waste and make these records available for inspection:-*

*Provide that the State Pollution Control Board may extend the said period of ninety days in following cases namely:-*

- i. *Small generators (upto ten tones per annum) upto one hundred and eighty days of their annual capacity;*
- ii. *Actual users and disposal facility operators upto one hundred and eighty days of their annual capacity;*



- iii. Occupiers who do not have access to any treatment, storage, disposal facility in the concerned state;
- iv. The waste which needs to be specifically stored for development of a process for its recycling, recovery, pre-processing, co-processing or utilization;
- v. In any other case, on justifiable grounds upto one hundred and eighty days."

The appellant was impleaded as respondent No.7 (M/s National Fertilizer Limited, Panipat) in O.A No.620/2022 pending before this Hon'ble NGT. The appellant had submitted all the relevant facts before this Hon'ble Tribunal and after considering the reply of appellant impleaded as respondent No.7 in above mentioned OA, the Hon'ble NGT did not find substantial justification for not disposing the hazardous waste within the period of 90 days after covering of the same under Hazardous Waste and Management Rules, 2016 from 03/04/2016. The unit required to dispose the complete hazardous waste stored in the form of carbon slurry by 02.07.2016 i.e. within 90 days after covering of carbon slurry as hazardous waste falls in schedule I at Sr. No.18.3 of HOWM Rules, 2016. Copy of HWM authorization is annexed as **Annexure-R/1.**

Copy of Order dated 08.01.2024 passed by this Hon'ble Tribunal in OA No.620/2022 is annexed herewith as **Annexure-R/2.** Copy of Order dated 28.08.2024 passed by this Hon'ble Tribunal in OA No.620/2022 is annexed herewith as **Annexure-R/3.**

ii What is particular damage to air, water or land has been caused by the appellant:

**Response:-**

At the outset, it is submitted that onus is on the polluter to prove that no pollution has been caused by non-compliance of HWM Rules, 2016. It is further submitted that Hon'ble Tribunal vide its order dated 28.08.2024 have mentioned in para No.50 that respondent No.7 (M/s National Fertilizer Limited, Panipat) have illegally stored hazardous waste for more than 8 years and justification given by him to store hazardous waste for more than 8 year is not valid and reasonable.



Hon'ble NGT vide its order dated 28.08.2024 directed SPCB to take further action for imposition of Environment Compensation on respondent No.7 for past violations and recovery thereof in accordance with law. The authorization to the unit was granted with condition that unit will dispose off the waste as per HOWM Rule, 2016. The long-term storage of carbon slurry can lead to contamination of groundwater, air pollution, toxicity to flora and fauna, odor and aesthetic issued alongwith biodiversity loss thus possess significant environmental risks. Thus, the carbon slurry needs to be disposed off in time bound manner by the unit and liable to pay environmental compensation for damage to the environment.

iii What is the basic on which environment compensation imposed upon the appellant.

**Response:-**

The unit M/s NFL, Panipat have himself agreed that carbon slurry of quantity 122600 MT has been stored at site and start lifting the waste only from February, 2024 whereas the unit M/s Shubham Sales Corporation, Rohtak has obtained authorization in the year 2019 for the period 07.09.2019 to 30.09.2024 but no effort was made by the unit to dispose off the waste from November, 2019 and the hazardous waste kept lying with the Appellant inspite of authorized service provider available in the state. As per legal procedure a show cause notice dated 27/01/2024 was issued to the said unit before imposition of Environment Compensation followed by a personal hearing to the said unit on 09.10.2024 by the Environment Compensation Assessment Committee at Head Office level for imposition of Environment Compensation.

Copy of Show Cause Notice dated 29.01.2024 is annexed as **Annexure-R/4**. Copy of Reply dated 02.02.2024 of appellant is annexed as **Annexure-R/5**. Copy of Recommendations of Regional Office, HSPCB, Panipat is annexed as **Annexure-R/6**. Copy of proceedings dated 09.10.2024 of Environment Compensation Assessment Committee is annexed as **Annexure-R/7**.



3. That the appeal filed by the Appellant is not sustainable in view of the facts mentioned above and liable to be dismissed.

  
Regional Officer,  
HSPCB, Panipat.

**Date: 18.01.2025**  
**Place: Panipat**

PRINCIPAL BENCH, NEW DELHI

Appeal No.50/2024

IN THE MATTER OF:

National Fertilizers Limited

Appellant

Versus

Haryana State Pollution Control Board & Ors

Respondent(s)

**Affidavit**

I, Bhupinder Singh, Regional Officer, Haryana State Pollution Control Board at Panipat region aged about 44 Years do hereby solemnly affirm and state as under:

1. That Haryana State Pollution Control Board has been impleaded as Respondent and Deponent being the Regional Officer is authorized representative of the HSPCB in present case. That Deponent is well conversant with the facts and circumstances of the case therefore authorized and competent to swear this affidavit.
2. That the Deponent have read the contents of accompanying reply which has been drafted under his instructions.
3. That ANNEXURES are true copy of their originals.

*Balwinder*

DEPONENT

**VERIFICATION**

Verified at Panipat on 18.01.2025 that the contents of above affidavit are true and correct to knowledge of Deponent and on the basis of information derived from the Official record which Deponent believe to be true and no material fact has been concealed therein.

*Balwinder*

DEPONENT



**ATTESTED**

*[Signature]*  
Notary, PANIPAT

18 JAN 2025



**Haryana State Pollution Control Board**  
**SCO-55, Sec.25, HUDA, Panipat Ph. 0180-2672037 Email:-**  
**hspcbopr@gmail.com**



No. :HWM/PIT/2021/8903782

DT: 19/08/2021

To

M/s NFL Panipat  
 Gohana Road Panipat  
 Panipat

**Sub: Grant of Authorization under Hazardous and Other Wastes(Management & Transboundary Movement) Rules, 2016**

1. Reference of application:8903782 dated: 19/08/2021
2. RATNAKAR MISHRA of NFL Panipat is hereby granted an authorization for generation, collection, storage, disposal on the premises situated at Gohana Road Panipat

Details of Authorization

S.No.	Name of process and Category of Hazardous Waste as per the Schedules I, II and III of these rules	Authorised mode of disposal or recycling or utilisation or co-processing, etc.	Quantity
1	Production of nitrogenous and complex fertilizers, Spent catalyst	Authorized recycler through auction	150 T/Annum
2	Production of nitrogenous and complex fertilizers, Spent catalyst	Preprocessor- GEPIL	100 T/Annum
3	Production of nitrogenous and complex fertilizers, Spent carbon	REcycler	122600 T/Annum
4	Purification and treatment of exhaust air, water and waste water from the ..... treatment plants (CETP's), Chemical sludge from waste water treatment	GEPIL	50 T/Annum
5	De-contamination of barrels/containers used for handling of hazardous waste/chemicals, Chemical Containing residue arising from decontamination	Recycler through auction	5 T/Annum
6	Industrial operations using mineral/synthetic oil as lubricant in hydraulic systems or other applications, Used/spent oil	REcycler through auction	40 T/Annum

1. The authorization shall be valid for a period of 01/10/2021 to 30/09/2026
2. The authorization is subject to the following general and specific conditions :-
  - (i) **1.Unit will handover spent carbon, only to the Authorized recycler through tendering and also submitted the authorization of the unit to whom waste is sent before sending. 2. That the unit will comply with all the provisions of Hazardous Waste Rules . 3. That unit will maintain record in Form III and submit annual return on form IV before 30th june of every year 4.That the authorization so granted is only for spent carbon generation , collection and storage . 5. That the Authorization so granted shall become invalid in case of violation of any of the above / any law of the land .**

**Regional Officer Panipat  
For Haryana State Pollution Control Board**

Conditions of Authorization:

1. The authorised person shall comply with the provisions of the Environment (Protection) Act, 1986, and the rules made there under.
2. The authorization or its renewal shall be produced for inspection at the request of an officer authorised by the State Pollution Control Board.
3. The person authorised shall not rent, lend, sell, transfer or otherwise transport the hazardous and other wastes except what is permitted through this authorization.
4. Any unauthorised change in personnel equipment or working conditions as mentioned in the application by the person authorised shall constitute a breach of this authorization.
5. The person authorised shall implement Emergency Response Procedure (ERP) for which this authorization is being granted considering all site specific possible scenarios such as spillages, leakages, fire etc. and their possible impacts and also carry out mock drill in this regard at regular interval of time.
6. The person authorised shall comply with the provisions outlined in the Central Pollution Control Board guidelines on "Implementing Liabilities for Environmental Damages due to Handling and Disposal of Hazardous Waste and Penalty".
7. An application for the renewal of an authorization shall be made as laid down under these Rules.
8. Any other conditions for compliance as per the guidelines issued by the Ministry of Environment, Forest and Climate Changes or Central Pollution Control Board from time to time.
9. Annual return shall be filed by June 30 th for the period ensuring 31 st March of the year.

**Regional Officer Panipat  
For Haryana State Pollution Control Board**

Item No.7

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.620/2022

Kaushal Kishore Vishwakarma

...Applicant

Versus

State of Punjab &amp; Ors.

...Respondents

Date of hearing: 08.01.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: None for the applicant.

Respondents: Mr. Naginder Benipal Advocate for respondent no. 2-PPCB.  
Mr. Vivek Kohli, Senior Advocate with Ms. Nikita Maheshwari, Ms. Juvas Rawal and Ms. Pari Bhardwaj, Advocates for respondents No. 4, 7 & 10.  
Ms. Japneet Kaur Proxy Counesl for Ms. Harithi Kambiri Counsel for respondent No. 5  
Mr. Rahul Khurana, Advocate for respondent no. 6-HSPCB with Mr. Dinesh, RO, HSPCB, Rohtak.  
Mr. Vikrant Panchanda and Mr. Mukul Katyal Advocates for respondent no. 9-CPCB (Through VC)  
Ms. Gurinderjeet Singh, GM (Technical) and Mr. Y. B. Bhagat DGM (Material) for Respondent No. 10.

**Application is registered based on a letter petition received by Post.**

**ORDER**

1. In compliance of order dated 24.11.2023, reply affidavit has been filed by respondent no. 9-CPCB vide email dated 05.01.2024. The relevant part of the reply affidavit filed by respondent no. 9-CPCB reads as under:-

**“X X X X**

*The Spent Carbon (Carbon Residue) is generated during the thermal cracking of hydrocarbon for manufacturing of urea fertilizer. Spent Carbon (Carbon Residue) is listed as hazardous waste under S No. 18.2 of Schedule -1 of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.*

*CPCB had published Standard Operating Procedure (SOP) for Utilization of Spent Carbon (Carbon Residue) generated from Urea Fertilizer Industry in March 2017. The aforementioned SOP is enclosed as Annexure - II*

*The aforementioned SOP specifies the process which involves utilization of spent Carbon (Carbon Residue) in carbon black industry to reduce consumption of raw material to achieve resource recovery. Carbon Residue is mixed with quench water and is used as quench liquor at a temperature of about 2000 °C in the reactor to reduce the temperature and in process, carbon in the Carbon Residue becomes carbon black.*

*The Spent carbon (Carbon Residue) may be disposed in authorized disposal facility in accordance with authorization condition, when not utilized in manufacturing of Carbon black.*

*As per Hon'ble NGT order dated 24.11.2023, CPCB has collected information from concerned fertilizer industries/ SPCBs and Association. CPCB through letter and Email dated 15.12.2023 requested concerned fertilizer industries, State Pollution Control Boards and Fertilizer Association of India to provide requisite information.*

*Out of 42 concerned industries, CPCB received information from all 42 industries.*

*Only one unit i.e. M/s Gujarat Narmada Valley Fertilizers & Chemicals Ltd (Unit-1), Bharuch, Gujarat has informed that it generates carbon residue (carbon soot) during partial oxidation of Low sulphur Heavy Stock (LSHS) in Ammonia making process. Since 2013 the feed stock of manufacturing of urea was replaced from LSHS to natural gas. Only a small quantity of Ammonia is being manufactured through LSHS. As per conditions of Consolidated Consent & Authorization issued by Gujarat Pollution Control Board, the unit is generated capacity of 2000 MT / Annum of Carbon soot. The unit informed that it is being utilized carbon soot in its boiler along with coal, which is in accordance with conditions of Consolidated Consent & Authorization issued by Gujarat Pollution Control Board.*

*National Fertilizers Ltd, Bathinda informed that it has not generated carbon slurry since November 2012 after changing feed stock from fuel oil to natural gas. The unit informed that it disposes carbon slurry to authorized Hazardous Waste recycler and has submitted documentary evidence in this regard. The unit informed that the quantity of carbon slurry stored in ponds as on 19.12.2023 is 38145.57 MT which is yet to be disposed by it.*

*National Fertilizers Ltd. Nangal informed that it has not generated carbon slurry since February 2013 after switched off*

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*to natural gas. It has disposed off carbon slurry as per Hazardous and Other Wastes Management and Transboundary Movement) Rules, 2016. The unit has submitted documentary evidence in this regard. The unit has informed that the all carbon slurry has been disposed off. Presently carbon slurry pond is empty.*

*National Fertilizers Ltd, Panipat informed that it has not generated carbon slurry since November 2012. The unit has informed that the quantity of carbon slurry is stored in pond is 122600 MT, which is yet to be disposed off. The unit informed that it has permitted Haryana State Pollution Control Board authorized hazardous waste recycler / processor for disposal of stored carbon slurry; and has submitted documentary evidence in this regard.*

*In addition to above stated 04 units; 38 units that responded to the communications made by CPCB informed that they do not generate any spent carbon and have no stored quantities of spent carbon.*

*The information collected by CPCB from various industries is summarized in tabular form in Annexure —III”*

2. A perusal of the above reply affidavit filed by respondent no. 9-CPCB showed that Gujrat Narmada Valley Fertilizers and Chemical Ltd. at serial no. 8 in list annexure III is generating 2000 MTA carbon slurry while Hindustan Urvarak and Rasayan Ltd. at serial no. 12 thereof had not provided any information to the CPCB and that list annexure III was prepared on the basis of information provided by 38 units that responded to the communications made by CPCB. Respondent no. 9-CPCB is directed to obtain the requisite information from Hindustan Urvarak and Rasayan Ltd. at serial no. 12 in list annexure III and also to direct SPCBs/UTPCCs to verify the factual position regarding storage and disposal of carbon slurry in its plant by any similar industries in their jurisdiction.

3. Further response/Action Taken Report by CPCB be filed **within one month** by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

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4. No response regarding issuance of guidelines and monitoring mechanism for monitoring storage and disposal of such hazardous waste of carbon slurry by similar industries throughout India has been filed by MoEF & CC.
5. Learned Counsel for MoEF & CC seeks time to file its response in this regard.
6. Response by MoEF & CC be filed **within one month** by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.
7. Reply has been filed by respondent no. 10-M/s Nangal Fertilizers Ltd., Nangal vide email dated 03.01.2024. The relevant part of the reply reads as under:-

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

X X X X

**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/cm<sup>2</sup> 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.

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.

#### **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.

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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").

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

<b>S. No.</b>	<b>Name of the Bidders</b>
<b>1</b>	<b>Carbon Chem Industries, Bathinda</b>
<b>2</b>	<b>Super Trading Corporation, Bathinda</b>
<b>3</b>	<b>Rohtak Wire and Hardware Store, Delhi</b>

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."

8. So far as disposal of carbon slurry by respondent no. 4-NFL, Bhatinda and respondent no. 7-NFL, Panipat is concerned upto date status reports and action plans have not been filed by respondents no. 4 and 7.

9. Action Taken Reports/Action Plan with all requisite details be filed by respondents no. 4 and 7 **within one month** by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

10. Despite unjustified continued storage of carbon slurry by respondents no. 4 and 7 and also inaction/delay on their part in disposal thereof in accordance with mandatory statutory provisions, no action has been taken by Punjab State Pollution Control Board and Haryana State Pollution Control Board for imposition of environmental compensation and also prosecution of the defaulting officers/officials and Punjab State Pollution Control Board and Haryana State Pollution Control Board are directed to initiate appropriate proceedings for imposition of environmental compensation and prosecution of the defaulting officers/officials in accordance with law and file Action Taken Report **within one month** by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

11. List for further consideration on 22.02.2024.

12. A copy of this order be sent to Secretary, MoEF & CC, Secretary, CPCB, General Managers, NFL, Bhatinda and NFL, Panipat and Member Secretaries, PSPCB and HSPCB respectively by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 08<sup>th</sup>, 2024

Item No.3

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.620/2022

Kaushal Kishore Vishwakarma

...Applicant

Versus

State of Punjab &amp; Ors.

...Respondents

Date of hearing:- 28.08.2024.

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: None for the applicant.

Respondents: Mr. Vivek Kohli, Senior Advocate with Mr. Juvas Rawal and Ms. Bhavya Bhatia, Advocates for respondents No. 4, 7 and 10(through VC).  
Mr. Rahul Khurana, Advocate for respondent no. 6- HSPCB (through VC)  
Ms. Nidhi Jaswal, Advocate for respondent no. 8- MoEF (through VC).

**Application is registered based on a letter petition received by Post.**

**ORDER**

1. Mr. Kaushal Kishore Vishwakarma has sent to this Tribunal by post the present letter petition, which has been treated and registered as Original Application, complaining about violation of environmental norms in handling of carbon and hazardous waste with prayer for taking of

appropriate steps for saving the lives of the labourers and protection and improvement of the environment.

2. Briefly stated, the applicant has submitted that he had been employed as daily labourer during March-April, 2022 by Mr. Lallan, Contractor who was working for Mr. Jagtar Walia and Mr. Napinder Singh. The applicant was told that the above said persons were working on behalf of MC Baljinder Singh and name of the company was Carbo-Chem Industries. He was assigned the work of drying carbon, packing the same in the bags and loading/unloading the same for transportation to the godown in front of Central University, Mansa Road, Bathinda. After vacating the Mansa Road godown the above said persons have stored the carbon in the godowns situated in front of Maharaja Ranjit Singh College on Badal Road and in village Dunewal, Sangat Mandi, Bathinda. When the applicant had problem in breathing and developed rashes on his skin, the above said persons paid an amount of Rs. 2,000/- to him through Mr. Lallan and asked him to leave for his village and threatened him with dire consequences, if he told any person about his medical problems. The applicant left Bathinda and contacted a lady working for Jan Vikas Society, who told him that O.A. No. 72/2019 had been filed before this Tribunal.

3. Vide order dated 01.11.2022, the State of Punjab through Chief Secretary, Government of Punjab, the Punjab State Pollution Control Board (PSPCB), the District Magistrate, Bathinda and the Project Proponent- M/s. National Fertilizer Ltd. Plant, Bathinda were impleaded as respondents no. 1 to 4 and notices were ordered to be issued to them.

4. Reply has been filed by respondent no. 2-PSPCB vide email dated 15.02.2023. In its reply, the respondent no. 2-PSPCB has summarized the facts of the case in **O.A no. 72 of 2019** titled as **Rakesh Singh v/s State of Punjab & Ors.** action taken and compliance made with the orders passed by this Tribunal as under:-

*“a) That the issue for consideration in O.A no. 72 of 2019 titled as Rakesh Singh v/s State of Punjab was the remedial action against storing of hazardous waste by M/s Carbon Chemical Industries at Bathinda, Punjab in violation of the Hazardous Waste Management Rules, 2016.*

*b) Vide order dated 26.2.2019, this Hon'ble Tribunal directed the Punjab State Pollution Control Board to furnish a factual and action taken report in the case. A report was furnished vide e-mail dated 5.4.2019 to the effect that huge quantity of carbon slurry was lying stored at the site and tentative quantity appeared to be 3470 tones. A copy of order dated 26.2.2019 passed by the Hon'ble Tribunal in O.A No. 72 of 2019 is enclosed as **Annexure-A**.*

*c) The report of the Punjab State Pollution Control Board was duly considered by this Hon'ble Tribunal vide order dated 3.7.2019. In view of violation of Hazardous Waste Management Rules, the Hon'ble Tribunal issued directions for the constitution of a Joint Committee comprising of Central Pollution Control Board and State Pollution Control Board to assess and recover compensation and furnish a compliance report. A sum of Rs. 10 Lakhs was directed to be collected as an interim compensation. A copy of order dated 3.7.2019 passed by the Hon'ble Tribunal in O.A No. 72 of 2019 is enclosed as **Annexure-B**.*

*d) The Joint Inspection Report has been filed on 4.9.2019 to the effect that compensation has been duly assessed. A copy of Joint Inspection Report filed in O.A No. 72 of 2019 is enclosed as **Annexure-C**.*

*e) The report of the Joint Committee was considered by the Hon'ble Tribunal and vide order dated 13.9.2019 directions were issued for recovery of the compensation in accordance with Law and filing of a compliance report by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in). A copy of order dated 13.9.2019 passed by the Hon'ble Tribunal in O.A No. 72 of 2019 is enclosed as **Annexure-D**.*

*f) In compliance to order dated 13.9.2019, report was filed before the Hon'ble Tribunal on 20.11.2019 that remedial action has been taken. In view of the facts of the case, the Original Application No. 72 of 2019 titled, as Rakesh Singh*

*v/s State of Punjab was disposed of by the Hon'ble National Green Tribunal vide order dated 17.1.2020. A copy of order dated 17.1.2020 is enclosed as **Annexure-E**.*

5. In its reply respondent no. 2-PSPCB has also mentioned the point wise compliance of the recommendations of the Joint Committee in annotated form as under:-

<b>S. No.</b>	<b>Recommendations</b>	<b>Compliance</b>
1	<i>The industry shall operate only after obtaining Consent under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974, as applicable and Authorization under Hazardous and Other Wastes (Management and Trans-boundary Movement) Rules, 2016.</i>	<i>The consent to operate under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 is not applicable as industry was not processing any raw material to produce any product and was only engaged in transportation of carbon residue.</i>
2	<i>The industry shall apply under Rule 9 of HOWM Rules for pre-processing of carbon slurry as per the provisions of HOWM Rules, 2016.</i>	<i>The industry has obtained authorization under the provisions of HOWM Rules, 2016 from the Punjab Pollution Control Board for transportation of carbon residue @ 3500 Ton vide letter no. HWM/Fresh/BTI/2019/11732324 dated 20.12.2019, valid upto 31.12.2020.</i>
3	<i>The industry shall provide display board out the factory premises in accordance the orders dated 14/10/2003 of the Hon'ble Supreme Court passed in the matter of WP NO. 657/1995; Research Foundation for Science Technology and National Resource Policy Versus Union of India &amp; Anr.</i>	<i>The display board had been provided in the premises of the industry as observed by the officers of the Board during visit to the industry on 20.11.2019. Later on, the industry had shifted the remaining carbon residue @ 2944.59 Ton at newly established environmentally sound premises at Badal Road, Bathinda, for which the industry has obtained fresh authorization from the Punjab Pollution Control Board vide letter no. HWM/Fresh/BTI/ 2022/18547006 dated 05.07.2022 valid upto 04.07.2023 for transportation of carbon residue to the actual user i.e., M/s Shubham Sales Co., 5.30 KM Mile Stone, Bhiwani Road, Rohtak (Haryana). The industry had closed its premises at Mansa Road, Bathinda after obtaining permission from the Board for its new premises.</i>

4	<i>The industry shall provide covered storage shed for processed and unprocessed carbon slurry within 03 months. Such storage and processing area shall have impervious lined floor.</i>	<i>The industry had shifted the remaining carbon residue @ 2944.59 Ton from Mansa Road, Bathinda to its newly established environmentally sound (covered shed) premises at Badal Road, Bathinda, for which the industry has obtained fresh authorization from the Board vide letter no. HWM/Fresh/BTI/2022/18547006 dated 05.07.2022 valid upto 04.07.2023 for transportation of carbon residue to the actual user i.e., M/s Shubham Sales Co., 5.30 KM Mile Stone, Bhiwani Road, Rohtak (Haryana).</i>
5	<i>The industry may be directed not to sell/trade/transport the stored Carbon Slurry i.e. Hazardous Waste category 18.2 which is approx. 3470 ton without the prior permission of Punjab PCB.</i>	<i>The industry has obtained authorization from the Punjab Pollution Control Board vide letter no. HWM/Fresh/BTI/2022/18547006 dated 05.07.2022 valid upto 04.07.2023 for transportation of carbon residue to the actual user.</i>
6.	<i>Punjab PCB shall levy and collect (i) financial penalty of Rs.09 Lacs for the observed violations by enforcing Rule 23(2) of the HoWM Rules, 2016, in accordance with 'Guidelines on Implementing Liabilities for Environmental Damages due to Handling &amp; Disposal of Hazardous Wastes and Penalty' published by CPCB, (ii) apart from the above financial penalty, Environmental Compensation of Rs. 6,21,000/- shall also be recovered for the damages caused to the environment.</i>	<i>The industry has deposited Rs. 15.21 lacs (Rs.9,00,000/- +Rs. 6,21,000/-) with the Punjab Pollution Control Board vide DD no. 039968 dated 07.11.2019 vide Receipt no. 33/5096 dated 08.11.2019 in compliance to the orders of the Hon'ble National Green Tribunal.</i>

6. Respondent no. 2-PSPCB has accordingly submitted that in view of the fact that compliance of order dated 17.01.2020 passed by this Tribunal in O.A No. 72 of 2019 has been duly made by PSPCB and the Project Proponent in question, the present application has become infructuous.

7. Reply has also been filed by respondent no. 4-NFL, Bathinda, vide email dated 27.02.2023. In its reply respondent no. 4-NFL, Bathinda has submitted that no allegations have been made against NFL, Bathinda in the OA which has become infructuous in view of compliance and

payment of compensation. No lifting of carbon slurry was done by any contractor of NFL Bathinda during March and April 2022. Sale order was issued to M/s Shubham Sales Company, Rohtak on 21.06.2022 for disposal of entire available carbon slurry quantity of 39,600 MT. Till date M/s Shubham Sales Company, Rohtak has already lifted 1342.890 MT of carbon slurry and presently lifting of carbon slurry is not being done due to non-deposition of contractual amount by M/s Shubham Sales Company, Rohtak. From year 2013 onwards, due to shifting of type of fuel being used for manufacturing of Urea from LSHS to Natural Gas, no carbon slurry was produced. The carbon slurry which was already produced is being disposed of by awarding the contracts to authorized parties. During the period carbon slurry remained in the premises of NFL, the carbon slurry is kept in isolated place which is specifically designated for storage of carbon slurry and same is being maintained properly. Proper distance of storage facility from public at large has been maintained so that there may not be any loss of health during loading or unloading.

8. In view of the averments made in reply of respondent no. 4-NFL, Bathinda, this Tribunal, vide order dated 03.03.2023, impleaded M/s Shubham Sales Company, Rohtak and Haryana State Pollution Control Board (HSPCB) as respondents no. 5 and 6 and ordered issuance of notices to them.

9. Pursuant to order dated 03.03.2023 replies have been filed by respondent no. 5-M/s Shubham Sales Company, Rohtak vide email dated 25.05.2023 and respondent no. 6- HSPCB vide email dated 29.05.2023.

10. In its reply respondent no. 5-M/s Shubham Sales Company, Rohtak has submitted that respondent no. 5 is not having go-down in

Bathinda and has installed its plant for the processing of the carbon slurry at Rohtak, Haryana after obtaining consent to establish, consent to operate and necessary authorizations under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 from Regional Office of HSPCB and CPCB by complying with the CPCB Guidelines for Processing, Handling, Transporting and Collecting Hazardous Waste. Respondent no. 5 has also obtained permission from PSPCB for inter-state transportation of hazardous waste. No lifting was ever effected by respondent no. 5 from NFL Bathinda, during the month of April 2022, work pertaining to the contract of respondent no. 5 with NFL Bathinda began in the month of July 2022. Respondent no. 5 has lifted 1342.890 Metric Tonnes only of carbon slurry from NFL Bathinda which has been transported and processed at its facility at Rohtak and the same has been sold out to the actual users for further utilisation.

11. In its reply respondent no. 6-HSPCB has submitted that respondent no.5-M/s Shubham Sales Co. is engaged in manufacturing of Carbon mineral/Powder from spent carbon/carbon slurry. The Spent Carbon is pumped from the collection pit to mixing vessel/slurry preparation tank (where spent carbon is mixed with water). This carbon slurry mixed with water is injected from the slurry preparation tank through pipeline into the reactor. Temperature not less than 2000°C is being maintained in the reactor. After pulverizing the Material received from reactor, final product carbon black powder gets ready which is being sold in rubber and tyre industries. The spent carbon is listed at SI. No.18.2 of Schedule-I of the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016. The unit has obtained Consent to Operate under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974 valid upto

30.09.2024. It has also obtained authorization under the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016. The unit was inspected on 27.04.2023. The samples of air emissions and treated effluent were taken for analysis. As per analysis report dated 02.05.2023, air emission were found within prescribed limits. As per analysis report dated 03.05.2023, treated effluent was found within prescribed limits. The unit has made agreement with Common Hazardous Waste Treatment, Storage, and Disposal Facility (TSDF) Gujarat Enviro Protection & Infrastructure Ltd (GEPIL) for scientific disposal of hazardous waste generated from the processing of spent carbon.

12. Vide order dated 03.03.2023 respondent no. 2-PSPCB was directed to file an affidavit furnishing information regarding utilization of the amount of Rs. 15,21,000/- which was imposed on and realized from M/s. Carbon Chemical Industries at Bathinda, Punjab.

13. PSPCB filed reply vide email dated 29.05.2023. In its reply, respondent no. 2-PSPCB has submitted that the industry deposited environmental compensation of Rs. 15.21 Lakh vide D.D dated 07.11.2019. In compliance of order dated 21.10.2022 passed by this Tribunal in M.A. No. 74 of 2022 in O.A. No. 976 of 2019, the Government of Punjab constituted a High Power Committee vide notification no. 10/01/2023-STE(2)/03 dated 03.01.2023. The first meeting of the High Power Committee was held on 05.01.2023 to discuss the utilization of Environmental Compensation funds. The High Power Committee observed that the total Environmental Compensation accrued with the PSPCB till 31.03.2022 was Rs.13.8 Crores and decided to allocate Rs. 12 crores for setting up of mechanized MRF Centre of M.C Jalandhar by Punjab Municipal Infrastructure Development Company

(PMIDC) and Rs. 1.8 Crores for upgradation / strengthening of Environmental Monitoring Laboratory by Punjab Bio Technology Incubator (PBTI), Mohali. In compliance to the decisions of the High Power Committee, PSPCB vide office order no. 98 dated 09.03.2023 released the amount of Rs. 12.0 Crore to the Chief Executive Officer, Punjab Municipal Infrastructure Development Company and vide office order no. 99 dated 09.03.2023 released the amount of Rs. 1.8 to Punjab Bio Technology Incubator, Mohali.

14. Vide order **30.05.2023**, respondent no. 4-NFL Bathinda was directed to file an affidavit as to whether any carbon residue is now lying in its premises and what further action has been taken for its safe disposal.

15. Thereafter, vide order dated **04.10.2023** respondent no. 4 was directed to file an affidavit giving complete details regarding storage of hazardous waste-carbon slurry and measures taken for safe disposal thereof with status of implementation of the same and also its response to submission of learned counsel for respondent no.5. Respondent no. 5 was also directed to file affidavit mentioning in detail the steps taken for disposal of carbon slurry already lifted by it and its action plan for lifting, processing and disposal of remaining carbon from NFL, Bathinda in terms of the above said sales order.

16. In the course of hearing learned counsel for respondent no. 5 mentioned that there is some storage of hazardous waste-carbon slurry by NFL, Panipat also and in view thereof National Fertilizers Ltd. (NFL), Panipat was impleaded as respondent no. 7 and notice was ordered to be issued to respondent no. 7 requiring the same to file its response, with

regard to status of storage/disposal of hazardous waste-carbon slurry by it.

17. Respondent no. 4-NFL, Bathinda filed replies vide emails dated 31.07.2023, 03.10.2023 and 23.11.2023 and respondent no. 7-NFL Panipat filed reply vide email dated 23.11.2023.

18. This Tribunal considered presence of MoEF & CC and CPCB and NFL, Nangal regarding issuance of guidelines and monitoring mechanism for monitoring storage and disposal of hazardous waste of carbon slurry by similar industries and National Fertilizers Ltd. (NFL), Nangal for verifying the factual position regarding storage and disposal of carbon slurry in its plant and apprising this Tribunal about the practices adopted for disposal thereof and impleaded them as respondents no. 8 to 10 and ordered issuance of notices to them vide order dated 24.11.2023.

19. Replies were filed by respondent no. 10- NFL, Nangal vide email dated 03.01.2024, by respondent no. 9-CPCB vide email dated 05.01.2024 and by respondent no. 8-MoEF & CC vide email dated 20.02.2024.

20. This Tribunal observed in its order dated 08.01.2024 that a perusal of reply affidavit filed by respondent no. 9-CPCB showed that Gujarat Narmada Valley Fertilizers and Chemical Ltd. at serial no. 8 in list annexure III is generating 2000 MTA carbon slurry while Hindustan Urvarak and Rasayan Ltd. at serial no. 12 thereof had not provided any information to the CPCB and that list annexure III was prepared on the basis of information provided by 38 units that responded to the communications made by CPCB. Respondent no. 9-CPCB was directed to obtain the requisite information from Hindustan Urvarak and Rasayan

Ltd. at serial no. 12 in list annexure III and also to direct SPCBs/UTPCCs to verify the factual position regarding storage and disposal of carbon slurry in its plant by any similar industries in their jurisdiction.

21. In compliance thereof CPCB filed status note vide email dated 21.02.2024.

22. This Tribunal also noticed in its order dated 08.01.2024 that respondent no. 4-NFL, Bathinda and respondent no. 7-NFL, Panipat had not filed upto date status reports and action plans and directed them to file Action Taken Reports/Action Plan with all requisite details.

23. In compliance thereof affidavits were filed by respondents no. 4 and 7 vide email dated 16.02.2024. Additional report was filed by respondent no. 7 vide email dated 07.03.2024.

24. This Tribunal also noticed in its order dated 08.01.2024 that despite unjustified continued storage of carbon slurry by respondents no. 4 and 7 and also inaction/delay on their part in disposal thereof in accordance with mandatory statutory provisions, no action has been taken by PSPCB and HSPCB for imposition of environmental compensation and also prosecution of the defaulting officers/officials and PSPCB and HSPCB were directed to initiate appropriate proceedings for imposition of environmental compensation and prosecution of the defaulting officers/officials in accordance with law and file Action Taken Report.

25. In compliance thereof replies were filed by PSPCB and HSPCB vide separate emails dated 20.02.2024.

26. The replies/responses filed by the respondents as mentioned above will be referred to in requisite detail in later part of this order.

27. None has appeared for the applicant and respondents no. 1 to 3 during hearing of the case.

28. We heard arguments addressed by the learned Counsel for the respondents no. 4, 5 and 6 and reserved order on 13.03.2024.

29. However, while going through the material on record we found that relevant information material to adjudication of the questions involved in the present case has not been placed on record and relisting of the matter for further hearing was necessary on which the matter has been relisted for further hearing/directions.

30. On due consideration of the submissions made and perusal of the material on record we are of the considered view that in view of serious non-compliance with the environmental laws/norms regarding management, storage and disposal of Hazardous waste, the scope of the present proceedings is required to be widened and intervention by this Tribunal by issuance of remedial directions and continuous monitoring of compliance is necessitated and scope of the proceedings is widened accordingly.

**The Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016**

31. In exercise of the powers conferred by sections 6, 8, and 25 of the Environment (Protection) Act, 1986, the erstwhile Ministry of Environment and Forests, New Delhi vide G.S.R No. 395 (E) dated 04.04.2016 notified, the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

32. As provided by Rule 2 the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 apply to the management of hazardous and other wastes as specified in the Schedules to above said Rules.

33. However, as provided by Rule 2 the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 do not apply to:-

- “(a) waste-water and exhaust gases as covered under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) and the rules made thereunder and as amended from time to time;*
- (b) wastes arising out of the operation from ships beyond five kilometres of the relevant baseline as covered under the provisions of the Merchant Shipping Act, 1958 (44 of 1958) and the rules made thereunder and as amended from time to time;*
- (c) radio-active wastes as covered under the provisions of the Atomic Energy Act, 1962 (33 of 1962) and the rules made thereunder and as amended from time to time;*
- (d) bio-medical wastes covered under the Bio-Medical Wastes (Management and Handling) Rules, 1998 made under the Act and as amended from time to time; and*
- (e) wastes covered under the Municipal Solid Wastes (Management and Handling) Rules, 2000 made under the Act and as amended from time to time.”*

34. Rule 3 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 contains the definitions. Rule 3 (1) (17) thereof defines hazardous waste while Rule 3 (1) (23) defines other wastes.

35. Rule 3 (1) (17) of the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 read as under:-

- “3.(1)(17). ‘Hazardous waste’ means any waste which by reason of characteristics such as physical, chemical, biological, reactive, toxic, flammable, explosive or corrosive, causes danger or is likely to cause danger to health or environment, whether alone or in contact with other wastes or substances, shall include-*

- (i) Waste specified under Column (3) of Schedule I;
- (ii) Waste having equal to or more than the concentration limits specified for the constituents in class A and class B of Schedule II or any of the characteristics as specified in class C of Schedule II; and
- (iii) wastes specified in Part A of Schedule III in respect of import or export of such wastes or the wastes not specified in Part A but exhibit hazardous characteristics specified in Part C of Schedule III.

36. Rule 3 (1) (23) of the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 read as under:-

*“3.(1) 23. ‘Other wastes’ means wastes specified in Part B and Part D of Schedule III for the purpose of import and export and include such indigenously produced wastes as may be notified from time to time. (As amended vide Notification G.S.R. 798(E) dated 12th November, 2021).”*

37. Rules 4 to 10 in Chapter II of the above said rules lay down the procedure for management of hazardous and other wastes. Rule 4 lays down the responsibilities of the occupier for management of hazardous and other wastes while Rule 5 lays down the responsibilities of State Government for environmentally sound management of hazardous and other wastes. Rule 6 provides for grant of authorisation for managing hazardous and other wastes by State Pollution Control Board while Rule 7 confers power to suspend or cancel the authorization. Rule 8 contains the provisions regarding storage of hazardous and other waste while Rule 9 provides for utilization of hazardous and other wastes. Rule 10 lays down standard operating procedure or guidelines for actual users. Chapter III containing Rules 11 to 15 makes provisions regarding import and export of hazardous wastes. Chapter IV contains Rule 16 which provides for treatment, storage and disposal facility for hazardous and other wastes. Chapter V (Rules 17 to 19) deals with packaging, labelling and transport of hazardous and other wastes. Rule 17 provides for

packaging and labelling while Rule 18 provides for transportation of hazardous and other wastes and Rule 19 lays down manifest system (Movement Document) for hazardous and other waste to be used within the country only. Chapter VI embodies the miscellaneous provisions and Rule 20 provides for record and return. Rule 21 lays down responsibility of authorities. Rule 22 provides for reporting of accidents. Rule 23 provides for liability of occupier, importer or exporter and operator of a disposal facility. Rule 24 provides for appeal.

38. Rule 4 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 reads as follows:-

**“4. Responsibilities of the occupier for management of hazardous and other wastes.-**

*(1) For the management of hazardous and other wastes, an occupier shall follow the following steps, namely:-*

- (a) prevention;*
- (b) minimization;*
- (c) reuse,*
- (d) recycling;*
- (e) recovery, utilisation including co-processing;*
- (f) safe disposal.*

*(2) The occupier shall be responsible for safe and environmentally sound management of hazardous and other wastes.*

*(3) The hazardous and other wastes generated in the establishment of an occupier shall be sent or sold to an authorised actual user or shall be disposed of in an authorised disposal facility.*

*(4) The hazardous and other wastes shall be transported from an occupier’s establishment to an authorised actual user or to an authorised disposal facility in accordance with the provisions of these rules.*

*(5) The occupier who intends to get its hazardous and other wastes treated and disposed of by the operator of a treatment, storage and disposal facility shall give to the operator of that facility, such specific information as may be needed for safe storage and disposal.*

*(6) The occupier shall take all the steps while managing hazardous and other wastes to-*

*(a) contain contaminants and prevent accidents and limit their consequences on human beings and the environment;*

*and*

*(b) provide persons working in the site with appropriate training, equipment and the information necessary to ensure their safety.”*

39. Rule 8 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 reads as follows:-

**“8. Storage of hazardous and other wastes.-** (1) *The occupiers of facilities may store the hazardous and other wastes for a period not exceeding ninety days and shall maintain a record of sale, transfer, storage, recycling, recovery, pre-processing, co-processing and utilisation of such wastes and make these records available for inspection:*

*Provided that the State Pollution Control Board may extend the said period of ninety days in following cases, namely:-*

- (i) small generators (up to ten tonnes per annum) up to one hundred and eighty days of their annual capacity;*
- (ii) actual users and disposal facility operators up to one hundred and eighty days of their annual capacity,*
- (iii) occupiers who do not have access to any treatment, storage, disposal facility in the concerned State; or*
- (iv) the waste which needs to be specifically stored for development of a process for its recycling, recovery, pre-processing, co-processing or utilisation;*
- (v) in any other case, on justifiable grounds up to one hundred and eighty days.”*

**Spent Carbon/Carbon Residue/Carbon Slurry falls in the category of Hazardous Waste**

40. Schedule I to the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 contains the ‘List of Processes Generating Hazardous Wastes’. Carbon residue generated in the process of production of nitrogenous and complex fertilizers is categorized as hazardous waste at serial no. 18.2 in the above said list.

41. In the present case it is not disputed by respondent no. 4-NFL, Bathinda, respondent no. 7-NFL, Panipat and respondent no. 10-NFL, Nangal that carbon slurry which is subject matter of the grievances in the present original application falls in the category of hazardous waste at serial no. 18.2 in the list of Processes Generating Hazardous Wastes contained in Schedule I of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

**Compliance with the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016**

42. The material placed on record shows that respondents no. 4-NFL, Bathinda and 7-NFL, Panipat started their commercial production in the year 1979 and respondent no. 10-NFL, Nangal started its commercial production in the Year 1978. They used Fuel Oil ("FO") / Low Sulphur Heavy Stock ("LSHS") as feedstock for the production of Urea from 1979 till November, 2012. The Plants were based on the partial oxidation of Fuel Oil by the Shell Gasification process with the help of oxygen and steam at 55 kg/cm<sup>2</sup> 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 endeavor to keep in pace with clean technology and with a commitment to sustainable development, the Plants were restructured by respondents no. 4-NFL, Bathinda and 7-NFL, Panipat in November, 2012 and by respondent no. 10-NFL, Nangal in February, 2013. 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 by respondents no. 4-NFL, Bathinda and 7-NFL, Panipat at their Plants since 2012 and by respondent no. 10-NFL,

Nangal at its Plant since 2013. It is stated that leftover carbon slurry amounting to approximately 53100 metric ton was stored in NFL, Bathinda, leftover carbon slurry amounting to approximately 85000 metric ton was stored in NFL, Panipat and left over carbon slurry amounting to approx. 9800 MT (inclusive of water) in the designated carbon slurry ponds after following all the rules, regulations, guidelines and taking all necessary precautions.

43. It may be observed here that “carbon residue in production of nitrogenous and complex fertilizers” was categorized as “Hazardous Waste” at serial number 18.2 in the list of Processes Generating Hazardous Waste in Schedule I of the Hazardous Waste (Management and Transboundary Movement) Rules, 2016.

**Compliance by Respondent no. 10-NFL, Nangal**

44. Vide order dated 24.11.2023 NFL, Nangal was impleaded as respondent no. 10 to verify the factual position regarding storage and disposal of carbon slurry by it and apprising this Tribunal about the practices adopted for disposal thereof.

45. In its reply filed vide email dated 03.01.2024 respondent no. 10-NFL, Nangal has mentioned that respondent no. 10-NFL, Nangal has disposed of 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. The relevant part of the reply reads as under:-

**“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").

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."

**Compliance by respondent no. 4-NFL, Bathinda and respondent no. 7-NFL, Panipat**

46. In their reply respondents no. 4 and 7 have mentioned that prior to the notification of Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 carbon slurry was sold in the open market as an industrial product for industries like ink manufacturers, paint manufacturers retreated tyres, etc. and after the

notification of the said Rules, the respondents no. 4 and 7 have been following the rules, regulations, etc. for safe and environmentally sound management of hazardous waste at its unit. In their respective reply respondents no. 4 and 7 have also mentioned the steps taken for (i) storage and management of carbon slurry and (ii) disposal of the carbon slurry.

47. The relevant part of the reply filed vide email dated 16.02.2024 by respondent no. 4 regarding (i) storage and management of carbon slurry and (ii) disposal of the carbon slurry reads as under:-

***“Affidavit of Respondent-4, NFL, Bhatinda***

***HEAD C : STORAGE AND MANAGEMENT OF CARBON SLURRY***

16. *Since the notification of the said Rules, the Respondent No.4 has been following the required rules, regulations, etc. for safe and environmentally sound management of carbon slurry at its Unit.*
17. *Rule 4 of the said Rules lays down the responsibilities of the occupier for management of hazardous and other wastes. Rule 3 (21) defines occupier as "...a person who has control over the affairs of the factory or the premises and includes in relation to any hazardous and other wastes, the person in possession of the hazardous or other waste."*
18. *Thus, in the present case, the Respondent No.4 is the "occupier" of the carbon slurry and its duties are envisaged under the Rule 4, which is produced hereinbelow for ready reference by this Hon'ble Tribunal.*

***"4. Responsibilities of the occupier for management of hazardous and other wastes.-***

- 1) *For the management of hazardous and other wastes, an occupier shall follow the following steps, namely:-*
  - (a) prevention;*
  - (b) minimization;*
  - (c) reuse,*
  - (d) recycling;*
  - (e) recovery, utilisation including co-processing;*

(f) *safe disposal*

- 2) *The occupier shall be responsible for safe and environmentally sound management of hazardous and other wastes.*
- 3) *The hazardous and other wastes generated in the establishment of an occupier shall be sent or sold to an authorised actual user or shall be disposed of in an authorised disposal facility.*
- 4) *The hazardous and other wastes shall be transported from an occupier's establishment to an authorised actual user or to an authorised disposal facility in accordance with the provisions of these rules.*
- 5) *The occupier who intends to get its hazardous and other wastes treated and disposed of by the operator of a treatment, storage and disposal facility shall give to the operator of that facility, such specific information as may be needed for safe storage and disposal.*
- 6) *The occupier shall take all the steps while managing hazardous and other wastes to-*
  - (a) *contain contaminants and prevent accidents and limit their consequences on human beings and the environment; and*
  - (b) *provide persons working in the site with appropriate training, equipment and the information necessary to ensure their safety."*

19. *The carbon slurry amounting to approximately 53,100 metric tonnes (MT) generated till 2012 was stored by the Respondent No.4 at four (4) separate designated ponds after taking all necessary precautions and following all the regulations and guidelines. The carbon slurry from one Pond was sold in 2017-18, and now the available quantity is stored in three (3) ponds. The details of the 3 carbon slurry ponds located at the Respondent No.4's premises are as follows:*

<b>Pond</b>	<b>Size</b>
<i>Pond Number 1</i>	<i>11,252 square metres</i>
<i>Pond Number 2</i>	<i>12,610 square metres</i>
<i>Pond Number 3</i>	<i>48,300 square metres</i>
<b>Total size</b>	<b>71,300 square metres</b>

20. *The carbon slurry ponds are brick lined with High-Density Polyethylene (HDPE) which is excellent in its durability, flexibility, im-permeability. HDPE is highly resistant to environment conditions and is widely used for the manufacture of chemical tanks.*

21. *To prevent any leaks or spillage from the ponds, the dyke walls are raised by 3 to 5 metres from the carbon slurry storage level. Furthermore, the dyke walls around the carbon slurry ponds are surrounded by a lush tree cover.*
22. *The Respondent No.4 has also installed two (2) piezometric wells at the north — east and north — west side, as well as two (2) piezometric wells at the south and west of the carbon slurry ponds. The Respondent No.4 carries out monthly analysis of all the four (4) piezometric wells to ensure the quality of ground water. Monthly reports are also being sent to the Punjab State Pollution Control Board (hereinafter referred to as "**PSPCB**").*

*Copy of the plot plan indicating the location of the Piezometers, is attached herewith and marked as **DOCUMENT — 4.***

*Copy of Analysis Report, dated 01.02.2024, of ground water samples collected on 12.01.2024, is attached herewith and marked as **DOCUMENT - 5.***

23. *Improper slurry management can harm water sources and negatively affect soil quality through contamination. As evident from the monthly analysis of the ground water surrounding the carbon slurry ponds, the Respondent No.4 has assumed all responsibility to guarantee that the carbon slurry stored at its Unit does not have negative environmental impact.*
24. *It is reiterated that no carbon slurry has been generated at the Respondent No.4's Unit after the notification of the said Rules. Further, the Respondent No.4 has been undertaking all the steps from its end to ensure safe storage, management and disposal of the leftover carbon slurry at its Unit, as provided under the said Rules and other regulations as notified by the Government of India from time to time.*

#### **HEAD D: DISPOSAL OF CARBON SLURRY**

25. *For the safe disposal and lifting of the carbon slurry from its Ponds, the Respondent No.4 ensures that the carbon slurry is transported / disposed of by the authorised contractor(s) in closed trucks and containers, affixed with labels containing the emergency numbers in case of any spillage of the hazardous waste material, in accordance with the said Rules. Rule 18 is produced hereinbelow for ready reference:*

**"18. Transportation of hazardous and other wastes.-** (1) *The transport Of the hazardous and other waste shall be in accordance with the provisions of these rules and the rules made by the Central Government under the Motor Vehicles Act, 1988 and the guidelines issued by the Central Pollution Control Board from time to time in this regard.*

(2) *The occupier shall provide the transporter with the relevant information in Form 9, regarding the hazardous nature of the wastes and measures to be taken in case of an emergency and shall label the hazardous and other wastes containers as per Form 8.*

(3) *In case of transportation of hazardous and other waste for final disposal to a facility existing in a State other than the State where the waste is generated, the sender shall obtain 'No Objection Certificate' from the State Pollution Control Board of both the States.*

(4) *In case of transportation of hazardous and other waste for recycling or utilisation including co-processing, the sender shall intimate both the State Pollution Control Boards before handing over the waste to the transporter.*

(5) *In case of transit of hazardous and other waste for recycling, utilisation including co-processing or disposal through a State other than the States of origin and destination, the sender shall give prior intimation to the concerned State Pollution Control Board of the States of transit before handing over the wastes to the transporter.*

(6) *In case of transportation of hazardous and other waste, the responsibility of safe transport shall be either of the sender or the receiver whosoever arranges the transport and has the necessary authorisation for transport from the concerned State Pollution Control Board. This responsibility should be clearly indicated in the manifest.*

(7) *The authorisation for transport shall be obtained either by the sender or the receiver on whose behalf the transport is being arranged."*

26. *The Respondent No.4 also ensures that the hazardous waste is packaged and labelled in accordance with Rule 17 of the said Rules, which reads as follows:*

**"17. Packaging and Labelling.** - (1) *Any occupier handling hazardous or other wastes and operator of the treatment, storage and disposal facility shall ensure that the hazardous and other wastes are packaged in a manner suitable for safe handling, storage and transport as per the guidelines issued by the Central Pollution Control Board from time to time. The labelling shall be done as per Form 8 under HWM Rules, 2016.*

(2) *The label shall be of non-washable material, weather proof and easily visible."*

27. *The Respondent No.4 also ensures that any such contractor(s) have all the necessary and valid approvals, authorisations and permissions from the concerned Pollution Board(s), in terms of Rule 9:*

**“9. Utilisation of hazardous and other wastes.-** (1) *The utilisation of hazardous and other wastes as a resource or after pre-processing either for co processing or for any other use, including within the premises of the generator (if it is not part of process), shall be carried out only after obtaining authorisation from the State Pollution Control Board in respect of waste on the basis of standard operating procedures or guidelines provided by the Central Pollution Control Board.*

*(2) Where standard operating procedures or guidelines are not available for specific utilisation, the approval has to be sought from Central Pollution Control Board which shall be granting approval on the basis of trial runs and thereafter, standard operating procedures or guidelines shall be prepared by Central Pollution Control Board:*

*Provided, if trial run has been conducted for particular waste with respect to particular utilisation and compliance to the environmental standards has been demonstrated, authorisation may be granted by the State Pollution Control Board with respect to the same waste and utilisation, without need of separate trial run by Central Pollution Control Board and such cases of successful trial run, Central Pollution Control Board shall intimate all the State Pollution Control Board regarding the same.*

*(3) No trial runs shall be required for co processing of waste in cement plants for which guidelines by the Central Pollution Control Board are already available; however, the actual users shall ensure compliance to the standards notified under the Environment (Protection) Act, 1986 (29 of 1986), for cement plant with respect to co processing of waste:*

*Provided that till the time the standards are notified, the procedure as applicable to other kind of utilisation of hazardous and other waste, as enumerated above shall be followed.”*

28. *The Respondent No.4 appointed Metal Scrap Trade Corporation Limited - a public sector undertaking under the Ministry of Steel, Government of India (hereinafter referred to as "MSTC") for the disposal of carbon slurry through tendering process. Carbo Chemical Industries was selected by MSTC as the H1 Bidder. The quantity of 9,305.94 MT of carbon slurry was lifted by Carbo Chemical Industries vide Sale Order No. 288, dated 06.03.2017, valid upto 12.01.2018.*
29. *Thereafter, MSTC issued the Notice Inviting Tender (hereinafter referred to as “NIT”) on behalf of the Respondent No.4 on its website on 11.11.2019 with the*

*auction dated as 10.12.2019 for lifting of the remaining quantity of 39,600 MT of carbon slurry.*

30. *After several extensions, re-auctions, and negotiations, the bid placed by Respondent No.5 herein -i.e., Shubham Sales Corporation Limited, Rohtak, was approved online by the Respondent No.4 on 09.04.2021. The Respondent No.5 furnished the security deposit on 15.04.2021 and 16.04.2021, and accordingly, MSTC issued the Acceptance Letter, dated 20.04.2021, to the Respondent No.5.*
31. *Before the issuance of the Acceptance Letter, dated 20.04.2021, the Respondent No.4 fulfilled all the compliances as mandated under the said Rules for disposal of 'hazardous waste'. The Respondent No.4 had obtained the following documents from the Respondent No.5 and verified their authenticity-*
- i) licence from Pollution Control Board for handling carbon slurry;*
  - ii) valid Consent to Operate ("CTO") for both air and water hazardous waste, from the Haryana State Pollution Control Board (hereinafter referred to as "HSPCB");*
  - iii) authorisation cum passbook from the Haryana SPCB;*
  - iv) authorisation for collection, transportation and utilisation of carbon slurry from Respondent No.4's Unit from the Punjab SPCB;*
  - v) no objection certificate from the Punjab SPCB and Haryana SPCB.*
32. *After the issuance of the Acceptance Letter, the Respondent No.5 was unable to deposit the First Instalment payable to Respondent No.4 in a timely manner due to the ongoing Covid-19 pandemic. The Respondent No.5 furnished part of the First Instalment on 11.03.2022 and accordingly, the Sale Order No. 393, dated 21.06.2022, was issued by the Respondent No.4 for lifting of 39,600 MT of carbon slurry.*
33. *The following measures were adopted by the Respondent No. 4 to ensure the safe lifting of carbon slurry from its Ponds by Respondent No.5, in compliance with the said Rules.*
- Before loading of the carbon slurry, the Respondent No. 4 ensured that only closed container type vehicles were deputed by the Respondent No. 5 for transporting the slurry, as authorized by PPSCB vide Authorisation Letter SSO(HWM)/2020/PPCB/S-14, dated 02.11.2020, and the subsequent Extension Letter SEE(HQ-3)/2022/2225, dated 21.11.2022.*

- The Respondent No. 4 also ensured that the suitable sticker or label containing the emergency numbers in case of spillage of Hazardous Waste Material was affixed to the above vehicles.
- Further, as per the NIT, it was mandatory on part of the Contracting Agency (in the present case-the Respondent No. 5) to ensure that the truck is weighed empty while loading the slurry, the truck is covered and further collection/loading is done through mechanized means as per the said Rules to prevent air transmission of the hazardous material.

34. The Respondent No.5 started the lifting of the carbon slurry from Respondent No.4's pond on 13.07.2022.
35. In view of a fresh proposal received from Respondent No.5, dated 07.08.2023, and upon several discussions and deliberations, the Respondent No.4 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.

#### **HEAD E : CURRENT STATUS AND ACTION PLAN**

36. It is pertinent to mention that the Respondent No.5 has commenced the re-lifting of the carbon slurry from the three carbon slurry ponds of the Respondent No.4 from 20.11.2023, in furtherance of Amendment No.2, dated 04.11.2023, to the Sale Order No. 393.
37. At this point, it is pertinent to mention that the Respondent No.5 herein has endeavoured to complete the lifting of the slurry from the ponds of Respondent No. 4 by 30.09.2024.
38. Copy of the Letter, dated 07.08.2023, sent by the Respondent No.5 to the Respondent No.4, is attached herewith and marked as **DOCUMENT - 6**.
39. As on 31.01.2024, there is an estimated quantity of 37,931.250 MT of carbon slurry lying at the ponds of the Respondent No.4. Since the re-lifting of the carbon slurry commenced on 20.11.2023, an estimated quantity of 325.860 MT of carbon slurry has already been lifted by the Respondent No.5, the details of which are as follows:

<b>Date</b>	<b>Quantity Lifted (MT)</b>
23-11-2023	9.820
08-12-2023	20.860

12-12-2023	22.200
15-12-2023	23.130
18-12-2023	25.890
19-12-2023	9.640
21-12-2023	33.860
23-12-2023	10.100
25-12-2023	21.490
02-01-2024	42.220
06-01-2024	23.630
15-01-2024	22.570
20-01-2024	16.250
30-01-2024	44.200
<b>Total</b>	<b>325.860</b>

40. *It is submitted that there are a lot of intricacies involved in the lifting and disposal of the carbon slurry under the said Rules which must be complied with. As stated above, the slurry can be lifted only by contractors authorised by the State or Central Pollution Control Board. Furthermore, the carbon slurry cannot be sold directly to its end users in the open market and must be lifted with utmost care and precaution.*
41. *Thus, as can be seen, the Respondent No.4 has left no stone unturned to ensure safe storage and management of the carbon slurry and its efficient disposal. The carbon slurry, last generated by the Respondent No.4 in 2012, is kept in isolated ponds specifically designated for the storage of hazardous waste. It is further reiterated, the carbon Ponds at Respondent No.4's Units are built at a considerable distance from civilization / public at large to prevent any hazards while loading and unloading.*
42. *It is reiterated that the Respondent No.5 herein strives to complete the lifting of the remaining 37,931.250 MT of carbon slurry from the Respondent No.4's ponds by 30.09.2024, in terms of the Amendments to the Sale Order. It is further reiterated that the Respondent No.4 shall take all steps necessary to support the Respondent No.5 in its endeavour and expedite the disposal of the carbon slurry from its ponds."*

48. The relevant part of the reply filed vide email dated 16.02.2024 by respondent no. 7-NFL, Panipat regarding (i) storage and management of carbon slurry and (ii) disposal of the carbon slurry reads as under:-

**“Affidavit Respondent No 7-NFL, Panipat**

**HEAD C: STORAGE AND MANAGEMENT OF CARBON SLURRY**

13. *Since the notification of the said Rules, the Respondent No.7 has been following the required rules, regulations, etc. for safe and environmentally sound management of carbon slurry at its Unit.*

14. *Rule 4 of the said Rules lays down the responsibilities of the occupier for management of hazardous and other wastes. Rule 3 (21) defines occupier as “...a person who has control over the affairs of the factory or the premises and includes in relation to any hazardous and other wastes, the person in possession of the hazardous or other waste.”*

15. *Thus, in the present case, the Respondent No.7 is the "occupier" of the carbon slurry and its duties are envisaged under the Rule 4, which is produced hereinbelow for ready reference by this Hon'ble Tribunal :*

*“4. Responsibilities of the occupier for management of hazardous and other wastes.-*

*1) For the management of hazardous and other wastes, an occupier shall follow the following steps, namely:-*

- (a) prevention;*
- (b) minimization;*
- (c) reuse,*
- (d) recycling;*
- (e) recovery, utilisation including co-processing;*
- (f) safe disposal.*

*2) The occupier shall be responsible for safe and environmentally sound management of hazardous and other wastes.*

*3) The hazardous and other wastes generated in the establishment of an occupier shall be sent or sold to an authorised actual user or shall be disposed of in an authorised disposal facility.*

*4) The hazardous and other wastes shall be transported from an occupier's establishment to an authorised actual*

*user or to an authorised disposal facility in accordance with the provisions of these rules.*

5) *The occupier who intends to get its hazardous and other wastes treated and disposed of by the operator of a treatment, storage and disposal facility shall give to the operator of that facility, such specific information as may be needed for safe storage and disposal.*

6) *The occupier shall take all the steps while managing hazardous and other wastes to-*

(a) *contain contaminants and prevent accidents and limit their consequences on human beings and the environment; and*

(b) *provide persons working in the site with appropriate training, equipment and the information necessary to ensure their safety."*

16. *The carbon slurry generated till 2012, amounting to approximately 1,22,600 metric tonnes (MT), as evaluated by Projects and Development India Limited (hereinafter referred to as "PDIL") —a Government of India undertaking, was stored by the Respondent No.7 at two (2) separate designated ponds. The details of the 2 carbon slurry ponds located at the Respondent No.7's premises are as follows:*

<b>Pond</b>	<b>Size</b>	<b>Quantity stored</b>
<i>Part –A Area</i>	<i>33,150 square metres</i>	<i>56,285 metric tonnes</i>
<i>Part –B Area</i>	<i>9000 square metres</i>	<i>66,316 metric tonnes</i>
<b>Total size</b>	<b>42,150 square metres</b>	<b>1,22,600 metric tonnes</b>

17. *The carbon slurry ponds are brick lined with High-Density Polyethylene (HDPE) which is excellent in its durability, flexibility, im-permeability. HDPE is highly resistant to environment conditions and is widely used for the manufacture of chemical tanks.*

18. *To prevent any leaks or spillage from the ponds, the dyke walls / earthen embankments are raised by 2.4 metres from the carbon slurry storage level, and the average depth of the carbon slurry ponds is approximately 6 metres. Furthermore, the dyke walls around the carbon slurry ponds are surrounded by trees.*

19. *The aforementioned carbon slurry ponds are built at a considerable distance from human settlement to prevent any hazards while loading and unloading. To ensure further safety, fencing has been done by the Respondent No.7 around the carbon slurry ponds and security guard(s) with proper gear and training have been posted.*

20. *As an added precaution, a committee has been constituted by the Respondent No.7 for regular monitoring of the carbon slurry while it is being lifted, to ensure that the*

*said Rules are complied with and no environmental harm or damage is caused during the process. The Respondent No.7 has also installed CCTV cameras around the carbon slurry ponds to aid the monitoring process.*

21. *Improper slurry management can harm water sources and negatively affect soil quality through contamination. As evident from the above, the Respondent No.7 has assumed all responsibility to guarantee that the carbon slurry stored at its Unit does not have negative environmental impact.*

22. *It is reiterated that no carbon slurry has been generated at the Respondent No.7's Unit after the notification of the said Rules. Further, the Respondent No.7 has been undertaking all the steps from its end to ensure safe storage, management and disposal of the leftover carbon slurry at its Unit, as provided under the said Rules and other regulations as notified by the Government of India from time to time.*

#### **Head D: Disposal of Carbon Slurry**

23. *For the safe disposal and lifting of the carbon slurry from its Ponds, the Respondent No.7 ensures that the carbon slurry is transported disposed of by the authorised contractor(s) in closed trucks and containers, affixed with labels containing the emergency numbers in case of any spillage of the hazardous waste material, in accordance with the said Rules. Rule 18 is produced hereinbelow for ready reference:*

*“18. Transportation of hazardous and other wastes.- (1) The transport of the hazardous and other waste shall be in accordance with the provisions of these rules and the rules made by the Central Government under the Motor Vehicles Act, 1988 and the guidelines issued by the Central Pollution Control Board from time to time in this regard.*

*(2) The occupier shall provide the transporter with the relevant information in Form 9, regarding the hazardous nature of the wastes and measures to be taken in case of an emergency and shall label the hazardous and other wastes containers as per Form 8.*

*(3) In case of transportation of hazardous and other waste for final disposal to a facility existing in a State other than the State where the waste is generated, the sender shall obtain 'No Objection Certificate' from the State Pollution Control Board of both the States.*

*(4) In case of transportation of hazardous and other waste for recycling or utilisation including coprocessing, the sender shall intimate both the State Pollution Control Boards before handing over the waste to the transporter.*

*(5) In case of transit of hazardous and other waste for*

*recycling, utilisation including co-processing or disposal through a State other than the States of origin and destination, the sender shall give prior intimation to the concerned State Pollution Control Board of the States of transit before handing over the wastes to the transporter.*

*(6) In case of transportation of hazardous and other waste, the responsibility of safe transport shall be either of the sender or the receiver whosoever arranges the transport and has the necessary authorisation for transport from the concerned State Pollution Control Board. This responsibility should be clearly indicated in the manifest.*

*(7) The authorisation for transport shall be obtained either by the sender or the receiver on whose behalf the transport is being arranged.”*

24. *The Respondent No.7 also ensures that the hazardous waste is packaged and labelled in accordance with Rule 17 of the said Rules, which reads as follows:*

*“17. Packaging and Labelling. - (1) Any occupier handling hazardous or other wastes and operator of the treatment, storage and disposal facility shall ensure that the hazardous and other wastes are packaged in a manner suitable for safe handling, storage and transport as per the guidelines issued by the Central Pollution Control Board from time to time. The labelling shall be done as per Form 8 under HWM Rules, 2016.*

*(2) The label shall be of non-washable material, weather proof and easily visible.”*

25. *The Respondent No.7 also ensures that any such contractor(s) have all the necessary and valid approvals, authorisations and permissions from the concerned Pollution Board(s), in terms of Rule 9:*

***“9. Utilisation of hazardous and other wastes.- (1) The utilisation of hazardous and other wastes as a resource or after pre-processing either for co-processing or for any other use, including within the premises of the generator (if it is not part of process), shall be carried out only after obtaining authorisation from the State Pollution Control Board in respect of waste on the basis of standard operating procedures or guidelines provided by the Central Pollution Control Board.***

*(2) Where standard operating procedures or guidelines are not available for specific utilisation, the approval has to be sought from Central Pollution Control Board which shall be granting approval on the basis of trial runs and thereafter, standard operating procedures or guidelines shall be prepared by Central Pollution Control Board:*

*Provided, if trial run has been conducted for particular waste*

*with respect to particular utilisation and compliance to the environmental standards has been demonstrated, authorisation may be granted by the State Pollution Control Board with respect to the same waste and utilisation, without need of separate trial run by Central Pollution Control Board and such cases of successful trial run, Central Pollution Control Board shall intimate all the State Pollution Control Board regarding the same.*

*(3) No trial runs shall be required for co-processing of waste in cement plants for which guidelines by the Central Pollution Control Board are already available; however, the actual users shall ensure compliance to the standards notified under the Environment (Protection) Act, 1986 (29 of 1986), for cement plant with respect to co-processing of waste:*

*Provided that till the time the standards are notified, the procedure as applicable to other kind of utilisation of hazardous and other waste, as enumerated above shall be followed."*

*26. The Respondent No.7 appointed Metal Scrap Trade Corporation Limited - a public sector undertaking under the Ministry of Steel, Government of India (hereinafter referred to as "MSTC") for the disposal of carbon slurry through tendering process. It is pertinent to point out that disposal of all hazardous waste material is to be done through the MSTC Online Portal only.*

*27. Thereafter, the E-auction No. MSTC/NRO/NATIONAL FERTILIZERS LIMITED/9/GOHANA ROAD/19-20/32756, dated 02.03.2020, was conducted on behalf of Respondent No.7 and only two (2) bidders participated for the lifting of carbon slurry stored at the Unit.*

*28. The bid placed by Respondent No.5 herein -i.e., Shubham Sales Co., Rohtak, was accepted by the Respondent No.7 and subsequently the Acceptance Letter, dated 30.11.2020, was issued to the Respondent No.5 through MSTC.*

*29. Before the issuance of the Acceptance Letter, dated 30.11.2020, the Respondent No.7 fulfilled all the compliances as mandated under the said Rules for disposal of 'hazardous waste'. The Respondent No.7 had obtained the following documents from the Respondent No.5 and Haryana State Pollution Control Board (hereinafter referred to as "HSPCB") and verified their authenticity -*

- (i) authorisation cum passbook from the Haryana SPCB;*
- (ii) authorisation for collection, transportation and utilisation of carbon slurry from Respondent No. 7's Unit from the HSPCB;*
- (iii) valid Consent to Operate ("CTO") for both air and water, from the HSPCB.*

30. The following measures have been adopted by the Respondent No. 7 to ensure the safe lifting of carbon slurry from its Ponds by Respondent No.5, in compliance with the said Rules:

- Before loading of the carbon slurry, the Respondent No.7 ensures that only closed container type vehicles shall be deputed by the Respondent No.5 for transporting the slurry.
- The Respondent No.7 also ensures that the suitable sticker or label containing the emergency numbers in case of spillage of Hazardous Waste Material shall be affixed to the above vehicle.
- The Respondent No 7 has completed the construction of Entry and Exit Gates, the area have been covered with fencing along with the installation of CCTV cameras around loading area keeping in view of the safety concerns for smooth lifting and transportation of the Carbon Slurry.

31. Thereafter, after several delay(s) due to the outbreak of the Covid-19 pandemic and settlement of litigation disputes, a Fresh Delivery Order, dated 15.12.2023, was issued by the Respondent No. 7 to Respondent No. 5 for lifting of carbon slurry from its ponds.

Copy of the Delivery Order, dated 15.12.2023, issued by the Respondent No. 7 to Respondent No. 5, is attached herewith and marked as **DOCUMENT – 1**

#### **HEAD E: CURRENT STATUS AND ACTION PLAN**

32. It is pertinent to mention that the Respondent No.7 has completed the construction of Entry and Exit Gates from the Ponds, the area has been covered with fencing along with the installation of CCTV cameras around loading area keeping in view the safety concerns for smooth lifting and transportation of the Carbon Slurry. The Respondent No. 5 is in the process of lifting the slurry from the Respondent No.7's Unit, in furtherance of the Fresh Delivery Order, dated 15.12.2023.

Copies of pictures / photographs showing construction of roads around the ponds, entry and exit points, installation of CCTV camera, etc., are annexed herewith and collectively marked as **DOCUMENT — 2 (COLLY)**.

33. It is submitted that there are a lot of intricacies involved in the lifting and disposal of the carbon slurry under the said Rules which must be complied with. As stated above, the slurry can be lifted only by contractors authorised by the State or Central Pollution Control Board. Furthermore, the carbon slurry cannot be sold directly to its end users in the open market and must be lifted with utmost care and precaution.

34. Thus, as can be seen, the Respondent No.7 has left no stone unturned to ensure safe storage and management of the carbon slurry and its efficient disposal. The carbon slurry, last generated by the Respondent No.7 in 2012, is kept in isolated ponds specifically designated for the storage of hazardous waste. It is further reiterated that the carbon Ponds at Respondent No.7's Units are built at a considerable distance from human settlement to prevent any hazards while loading and unloading."

49. Relevant part of affidavit filed vide email dated 07.03.2024 by respondent no. 7-NFL, Panipat reads as under: -

**"Affidavit on behalf of Respondent No.7, containing the action plan for disposal of carbon slurry.**

**X X X X**  
4. That the Respondent No.7 has completed the construction of entry and exit gates from the carbon slurry Ponds at its Unit. Further, the area has been covered with fencing along with the installation of CCTV cameras around the loading area, keeping in mind the safety concerns for smooth lifting and transportation of the carbon slurry.

5. That in furtherance of the Fresh Delivery Order, dated 15.12.2023, the authorised Contractor, Shubham Sales Co., Rohtak -i.e., the Respondent No.5 herein, commenced the lifting of carbon slurry on 20.02.2024 from the Ponds of the Respondent No.7.

6. That out of the total quantity of 1,22,600 metric tonnes ("MT") of carbon slurry, 68.34 MT of carbon slurry has been lifted from the Ponds of the Respondent No.7. Thus, as on 05.03.2024, a quantity of 122531.66 MT of carbon slurry remains stored at Respondent No.7's Unit.

7. That the Respondent No. 7 endeavours to dispose-off the entire leftover quantity of the carbon slurry stored at its Unit by 31.03.2025, through the Respondent No. 5 herein, after taking all the necessary precautions and steps as envisaged under the Rules.

8. That the Respondent No.7 shall take all steps necessary to support the Respondent No.5 in its endeavour and expedite the disposal of the carbon slurry from its ponds in line with the abovementioned timelines."

50. Respondents no. 4-NFL, Bathinda, 7-NFL, Panipat and 10-NFL, Nangal being occupiers of facilities could store the hazardous and other

waste for a period not exceeding 90 days which period could be extended by the State Pollution Control Boards-PSPCB and HSPCB respectively upto 180 days. In compliance with the Hazardous and other Waste (Management and Transboundary Movement) Rules, 2016 respondent no. 10-NFL, Nangal had disposed of carbon slurry. However, respondents no. 4-NFL, Bathinda and 7-NFL, Panipat have illegally stored hazardous wastes for more than 08 years. Respondents no. 4-NFL, Bathinda and 7-NFL, Panipat have tried to justify their failures to dispose of hazardous waste in accordance with the Hazardous and other Waste (Management and Transboundary Movement) Rules, 2016 on the grounds (i) time taken in tendering process by Metal Scrap Trade Corporation Limited (MSTCL); (ii) procedural requirements/conditions prescribed by the Hazardous and other Waste (Management and Transboundary Movement) Rules, 2016; (iii) litigation or procedural delays and (iv) lapses on the part of respondent no. 5 in lifting requisite quantities of carbon slurry. We do not find justifications given to be valid and reasonable. If respondent no. 10-NFL, Nangal could comply and dispose of carbon slurry, respondent no. 4-NFL, Bathinda and respondent no. 7-NFL, Panipat could also do so. It appears that even after carbon slurry was declared hazardous waste, respondent no. 4-NFL, Bathinda and respondent no. 7-NFL, Panipat continued to treat the same as byproduct which was earlier sold in open market and was source of generating revenue for them. Such unjustified long storage of hazardous waste only for the purpose of generation of revenue by way of open auction with stringent commercial terms and conditions by respondent no. 4-NFL, Bathinda and respondent no. 7-NFL, Panipat was highly improper. Respondent no. 4-NFL, Bathinda and respondent no. 7-NFL, Panipat completely ignored damage caused to environment by such long unjustified long storage of hazardous waste.

51. Since delay in disposal of huge quantity of carbon slurry unjustifiably stored by respondent no. 4-NFL, Bathinda and respondent no. 7-NFL, Panipat has occurred due to delayed tendering process by MSTCL, we consider presence of MSTCL to be necessary for adjudication of the questions involved in the case. Accordingly, MSTCL is impleaded as respondents no. 11 and Registry is directed to issue notice to respondent no. 11 requiring it to file its response with respect to exploring the possibility of ensuring disposal of carbon slurry stored by respondent no. 4-NFL, Bathinda and respondent no. 7-NFL, Panipat in statutorily permissible period by engaging suitable number of contractors by fixing reasonable mutually agreed price without being hampered by the tendering process for allocation of work to only one contractor at the highest price offered in the bid.

52. In view of statutory provisions referred to above requiring time bound disposal of hazardous waste of carbon slurry and also the quantity lifted by respondent no. 5 so far, we consider it necessary to seek response from respondents no. 2, 4, 6, 7 and 11 as to measures required to be taken for suitably increasing the number of contractors for disposal of the quantity of carbon slurry stored by respondents no. 4-NFL, Bathinda and 7-NFL, Panipat within the period of 180 days in time bound manner without any further extension of time.

53. Respondent no. 4-NFL, Bathinda and Respondent no. 7-NFL, Panipat are directed to upload information regarding disposal of carbon slurry during preceding week from Monday to Saturday on their websites by 5 P.M. on every Monday with link on main page of their websites.

54. Respondent no. 5 is also directed to file separate status reports regarding lifting of carbon slurry from respondent no. 4-NFL, Bathinda

and respondent no. 7-NFL, Panipat respectively in execution of respective agreements entered into with them.

55. In the present case carbon slurry, which was earlier considered to be a byproduct of manufacturing of fertilizer, was declared to be hazardous waste in 2016 and was required to be stored, managed and disposed of in accordance with the Hazardous and other Waste (Management and Transboundary Movement) Rules, 2016. Despite being under an obligation to dispose of the hazardous waste in accordance with the Hazardous and other Waste (Management and Transboundary Movement) Rules, 2016, NFL, Bathinda and NFL, Panipat have continued with storage of large quantities of hazardous waste for more than 08 years. Both the State Pollution Control Boards-PSPCB and HSPCB did not issue any direction to and did not take any action against NFL, Bathinda and NFL, Panipat before filing of the present application.

**Reply by MoEF & CC**

56. Respondent no. 8-MoEF & CC has in its reply submitted that SPCBs and the State Governments are the nodal agencies to ensure the monitoring storage and disposal of Hazardous waste and enforcement and implementation of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 on ground, which include handling, generation, collection, storage, packaging, transportation, use, treatment, processing, recycling, recovery, pre-processing, co-processing, utilization, offering for sale, transfer or disposal of the hazardous and other wastes.

57. We find that almost in all cases MoEF & CC submits casually drafted stereotype replies referring only to the statutory provisions and

also to delegation to various authorities and does not look into the failures of the concerned authorities to implement the relevant statutory provisions and ensure compliance with the environmental enactments, rules framed, notifications, orders and guidelines issued. The ultimate responsibility for implementation of the relevant statutory provisions and ensuring compliance with the environmental enactments, rules framed, notifications, orders and guidelines issued lies on MoEF & CC which is under constitutional obligation to protect and improve the environment and is also statutorily empowered to issue appropriate directions under section 5 of the Environment (Protection) Act, 1986.

58. In view thereof MoEF & CC is mandatorily required to monitor the working of the statutory bodies and take appropriate action in case of failure on their part to discharge the statutory obligations. In the eventuality of not doing so MoEF & CC will also be liable to be treated as an abettor and will also be liable to pay environmental compensation alongwith the violators for remediating the environmental damage thereby caused. MoEF & CC is directed to look into these aspects and issue appropriate directions to the State Pollution Control Boards/Union Territory Pollution Control Committees and other Authorities as may be required.

**Information about similar industries and storage and disposal of carbon slurry by them**

59. Vide order dated 24.11.2023 CPCB was impleaded as respondent no. 9 and was directed to obtain information about similar industries and storage and disposal of carbon slurry by them.

60. In compliance of order dated 24.11.2023, reply affidavit has been filed by respondent no. 9-CPCB vide email dated 05.01.2024. The

relevant part of the reply affidavit filed by respondent no. 9-CPCB reads as under:-

**“X X X X**  
*The Spent Carbon (Carbon Residue) is generated during the thermal cracking of hydrocarbon for manufacturing of urea fertilizer. Spent Carbon (Carbon Residue) is listed as hazardous waste under S No. 18.2 of Schedule -1 of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.*

*CPCB had published Standard Operating Procedure (SOP) for Utilization of Spent Carbon (Carbon Residue) generated from Urea Fertilizer Industry in March 2017. The aforementioned SOP is enclosed as **Annexure - II***

*The aforementioned SOP specifies the process which involves utilization of spent Carbon (Carbon Residue) in carbon black industry to reduce consumption of raw material to achieve resource recovery. Carbon Residue is mixed with quench water and is used as quench liquor at a temperature of about 2000 °C in the reactor to reduce the temperature and in process, carbon in the Carbon Residue becomes carbon black.*

*The Spent carbon (Carbon Residue) may be disposed in authorized disposal facility in accordance with authorization condition, when not utilized in manufacturing of Carbon black.*

*As per Hon'ble NGT order dated 24.11.2023, CPCB has collected information from concerned fertilizer industries/SPCBs and Association. CPCB through letter and Email dated 15.12.2023 requested concerned fertilizer industries, State Pollution Control Boards and Fertilizer Association of India to provide requisite information.*

*Out of 42 concerned industries, CPCB received information from all 42 industries.*

*Only one unit i.e. M/s Gujarat Narmada Valley Fertilizers & Chemicals Ltd (Unit-1), Bharuch, Gujarat has informed that it generates carbon residue (carbon soot) during partial oxidation of Low sulphur Heavy Stock (LSHS) in Ammonia making process. Since 2013 the feed stock of manufacturing of urea was replaced from LSHS to natural gas. Only a small quantity of Ammonia is being manufactured through LSHS. As per conditions of Consolidated Consent & Authorization issued by Gujarat Pollution Control Board, the unit is generated capacity of 2000 MT / Annum of Carbon soot. The unit informed that it is being utilized carbon soot in its boiler along with coal, which is in accordance with conditions of Consolidated Consent & Authorization issued by Gujarat Pollution Control Board.*

*National Fertilizers Ltd, Bathinda informed that it has not generated carbon slurry since November 2012 after changing feed stock from fuel oil to natural gas. The unit informed that it disposes carbon slurry to authorized Hazardous Waste recycler and has submitted documentary evidence in this regard. The unit informed that the quantity of carbon slurry stored in ponds as on 19.12.2023 is 38145.57*

*MT which is yet to be disposed by it.*

*National Fertilizers Ltd. Nangal informed that it has not generated carbon slurry since February 2013 after switched off to natural gas. It has disposed off carbon slurry as per Hazardous and Other Wastes Management and Transboundary Movement) Rules, 2016. The unit has submitted documentary evidence in this regard. The unit has informed that the all carbon slurry has been disposed off. Presently carbon slurry pond is empty.*

*National Fertilizers Ltd, Panipat informed that it has not generated carbon slurry since November 2012. The unit has informed that the quantity of carbon slurry is stored in pond is 122600 MT, which is yet to be disposed off. The unit informed that it has permitted Haryana State Pollution Control Board authorized hazardous waste recycler / processor for disposal of stored carbon slurry; and has submitted documentary evidence in this regard.*

*In addition to above stated 04 units; 38 units that responded to the communications made by CPCB informed that they do not generate any spent carbon and have no stored quantities of spent carbon.*

*The information collected by CPCB from various industries is summarized in tabular form in **Annexure -III**".*

61. This Tribunal observed in its order dated 08.01.2024 that a perusal of reply affidavit filed by respondent no. 9-CPCB showed Gujarat Narmada Valley Fertilizers and Chemical Ltd. at serial no. 8 in list annexure III is generating 2000 MTA carbon slurry while Hindustan Urvarak and Rasayan Ltd. at serial no. 12 thereof had not provided any information to the CPCB and that list annexure III was prepared on the basis of information provided by 38 units that responded to the communications made by CPCB. Respondent no. 9-CPCB was directed to obtain the requisite information from Hindustan Urvarak and Rasayan Ltd. at serial no. 12 in list annexure III and also to direct SPCBs/UTPCCs to verify the factual position regarding storage and disposal of carbon slurry in its plant by any similar industry in their jurisdiction.

62. Status Note has been filed by CPCB vide email dated 21.02.2024 and the relevant part thereof reads as under:

**“Status note in compliance to Hon'ble NGT order dated 08.01.2024 in Original Application No. 620/2022, Kaushal Kishore Vishwakarma Vs. State of Punjab & Ors.**

**Status Note**

Hon'ble National Green Tribunal, Principal Bench vide order dated 08.01.2024 in the matter of Original Application No.620/2022 directed CPCB to obtain the requisite information from Hindustan Urvarak and Rasayan Ltd., Jharkhand regarding generation and disposal of carbon slurry and also to direct SPCBs/UTPCCs to verify the factual position regarding storage and disposal of carbon slurry in its plant by any similar industries in their jurisdiction.

In compliance to Hon'ble NGT order dated 08.01.2024, the Central Pollution Control Board ("CPCB") issued directions under 18 (1) (b) of the Water (Prevention & Control of Pollution) Act, 1974 and Section 18 (1) (b) of The Air (Prevention and Control of Pollution) Act, 1981 to all State Pollution Control Boards and Pollution Control Committees on 01.02.2024 to verify the factual position regarding storage and disposal of carbon slurry by nitrogenous and complex fertilizers producing industries or any other industry in their jurisdiction. Copy of the said letter dated 01.02.2024 is annexed herewith as **Annexure I**.

That till date, CPCB has received replies to its aforesaid letter from the State Pollution Control Boards / Pollution Control Committees of Gujarat, Rajasthan, Kerala, Uttar Pradesh, Daman Diu and Nagaland that are enclosed at **Annexure II**.

Above SPCBs/PCC have informed that presently there are no carbon slurry generating fertilizer industries in their states and the quantity of carbon slurry that is yet to be disposed by fertilizer industries in their states is Nil.

Reminder have been issued to remaining SPCBs vide email dated 19.02.2024 in continuation of earlier CPCB letter dated 15.12.2023.

Further as directed by Hon'ble NGT vide order dated 08.01.2024, CPCB also obtained the requisite information from M/s Hindustan Urvarak and Rasayan Ltd., Jharkhand regarding generation and disposal of carbon slurry. CPCB earlier sent a letter to the unit on 15.12.2023 to provide information and again sent an email on 13.02.2024 in compliance of to the Hon'ble NGT Order. The unit vide letter dated 15.02.2024 has submitted that its process of manufacturing of Urea is based on Natural Gas Feedstock and do not generate Carbon Slurry in the process of manufacturing Urea fertilizer. Copy of the said letter is annexed herewith as **Annexure III.**”

63. CPCB is directed to obtain information from the remaining State PCBs and UTPCCs which have not provided the same so far and compile the information, issue appropriate directions on the basis of information received and file status report with details regarding action taken on the basis of information received.

**Remedial/punitive action by PSPCB and HSPCB**

64. Rule 21 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 mandates that the authority specified in column (2) of Schedule VII shall perform the duties as specified in column (3) of the said Schedule subject to the provisions of these rules. As per Schedule VII of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, State Pollution Control Board or Pollution Control Committees constituted under the Water (Prevention and Control of Pollution) Act, 1974 have to perform the following duties:-

- “(i) Inventorisation of hazardous and other wastes*
- (ii) Grant and renewal of authorisation*
- (iii) Monitoring of compliance of various provisions and conditions of permission including conditions of permission for issued by Ministry of Environment, Forest and Climate Change for exports and imports.*
- (iv) Examining the applications for imports submitted by the importers and forwarding the same to Ministry of Environment, Forest and Climate Change.*
- (v) Implementation of programmes to prevent or reduce or minimise the generation of hazardous and other wastes.*
- (vi) Action against violations of these rules.*
- (vii) Any other function under these Rules assigned by Ministry of Environment, Forest and Climate Change from time to time.”*

65. This Tribunal noticed in its order dated 08.01.2024 that despite unjustified continued storage of carbon slurry by respondents no. 4 and 7 and also inaction/delay on their part in disposal thereof in accordance with mandatory statutory provisions, no action has been taken by PSPCB

and HSPCB for imposition of environmental compensation and also prosecution of the defaulting officers/officials and PSPCB and HSPCB were directed to initiate appropriate proceedings for imposition of environmental compensation and prosecution of the defaulting officers/officials in accordance with law and file Action Taken Report.

66. In compliance thereof replies were filed by PPCB and HSPCB vide separate emails dated 20.02.2024.

67. Relevant part of the reply filed by PSPCB vide email dated 20.02.2024 reads as under:-

***“Reply of Punjab Pollution Control Board in compliance of order dated 08.01.2024 through Er. Ramandeep Singh Sidhu, Environmental Engineer, Regional Office, Bathinda.***

**X X X X**

*3. That the order dated 8.1.2024 passed by the Hon'ble Tribunal has been examined a notice to directions u/s 5 of the Environment (Protection) Act, 1986 for violation of the provisions of Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016 was issued to M/s National Fertilizers Ltd., Sivian Road, Bathinda by the Board vide letter no. 816 dated 12.2.2024 with an opportunity of hearing before the Chairman of the Board on 14.2.2024. The industry was directed to show cause as to why the directions already proposed vide Board's letter no. 3809 dated 22.12.2023 for imposition of environmental compensation alongwith an additional proposed direction to initiate legal action 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, may not be taken. A copy of letter no. 3809 dated 22.12.2023 is enclosed as **Annexure-A** and a copy of letter no. 816 dated 12.2.2024 is enclosed herewith as **Annexure-B**.*

*4. That Sh. V.K. Goyal, Executive Director, Smt. Sandhya Batra, DGM (TS), Sh. Harmesh Lal Thandi, Senior Manager of National Fertilizers Ltd., Bathinda have appeared for hearing on 14.2.2024 before the Chairman of the Board in reference to the notice dated 12.2.2024 issued by the Board. The representatives of the industry submitted written reply to the notice issued by the Board and the reply was taken on*

*record. As per the reply submitted by the M/s National Fertilizers Ltd., in one of the points it has been mentioned that the lifting of the HW Cat. 18.2 has been commenced again w.e.f. 20.11.2023 and 325.86 MT more quantity of hazardous waste has been lifted to the re-processor till 13.2.2023 and 37931.25 MT of hazardous waste is lying with the industry in its dyes. After hearing the representatives of the industry and the officers of the Board and also considering the orders being passed by the Hon'ble National Green Tribunal in O.A No. 620 of 2022, the Chairman of the Board decided as under:*

*(a) 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 in 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 in their part in disposal thereof which has caused environmental damage in the area.*

*(b) 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.*

*(c) 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.*

*(d) 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.*

*5. That the proceedings of the hearing held on 14.2.2024 before the Chairman of the Board were conveyed to M/s National Fertilizers Ltd., Sivian Road, Bathinda vide letter no. 919 dated 15.2.2024 and a copy of the same is enclosed as **Annexure-C**.*

*6. That respectfully it is submitted that the Punjab Pollution Control Board in compliance to order dated 8.1.2024 of the*

*Hon'ble Tribunal has initiated appropriate proceedings against respondent no.4 namely M/s National Fertilizers Ltd., Bathinda for filing of prosecution case against the industry as well as its responsible officers/officials and for imposition of environmental compensation in accordance with the provisions of the Law."*

68. Relevant part of the reply/Status Report filed by HSPCB vide email dated 20.02.2024 reads as under:

**"Status report by Haryana State Pollution Control Board, Panipat in Original Application No. 620/2022 titled as Kaushal Kishore Vishwakarma v. State of Punjab & Ors.**

2. That as per direction passed by Hon'ble Tribunal action has been initiated against the unit. The unit was inspected on 29.01.2024 by the team of Regional Office, Panipat. During Inspection the hazardous waste was found stored in two lagoons of area 33150 square meters and 9000 square meters. Carbon slurry of quantity 56285 MT and 66315 MT was stored in both of these lagoons respectively. These lagoons are brick lined with HDPE but covered shed was not found on these lagoons.

3. That a show cause notice was issued to the unit vide letter No. HSPCB/PR/2024/2719 dated 29.01.2024 for imposition of Environment Compensation for violation of HOWM Rules, 2016. The unit submitted reply to the show cause notice vide their letter No. NFL/PT/LAB/2024/418 dated 02.02.2024. The reply submitted by the unit was not found proper as the unit has submitted that it is not feasible to cover the such lame area of the pond with covered shed and has submitted that it has now made agreement with authorized recycler M/s Shubham Sales Co., Bhiwani Road, Rohtak, Haryana for disposal of hazardous waste stored in the form of carbon slurry by the unit. However, the lifting of carbon slurry has not been started at site by the authorized recycler M/s Shubham SalesCo., Bhiwani Road, Rohtak. The unit M/s NFL, Panipat has also not submitted any action plan for disposal of such large quantity of Carbon Slurry in time bound manner. The copy of show cause notice issued by HSPCB and copy of reply submitted by the unit is enclosed as **Annexure-R-1 & R-2**.

4. That case for Imposition of Environment compensation of Rs. 36.78 Crore has been sent to the competent authority of HSPCB by Regional Office, Panipat vide letter No. HSPCB/PR/2024/2846 dated 15.02.2024 for finalization of the environment compensation as proposed by the Regional Office, Panipat.

5. That prosecution action has also been recommended to competent authority of HSPCB vide letter No.HSPCB/PR

*/2024/2854 dated 19.02.2024 for vetting of complaint and sanction of prosecution against the unit M/s NFL, Panipat..."*

69. PSPCB and HSPCB are directed to take further action for imposition of environmental compensation on respondents no. 4 and 7 for past violations and recovery thereof in accordance with law and file further action taken report.

70. Reports/responses be filed by respondents no. 2, 4, 5, 6, 7, 8, 9 and 11 as directed above at least one week before the date of hearing hereby fixed.

71. List on 15.10.2024 for further consideration.

72. A copy of this order be sent to respondents no. 2, 4, 5, 6, 7, 8, 9 and 11 by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

August 28<sup>th</sup>, 2024  
AG



**HARYANA STATE POLLUTION CONTROL BOARD**  
**SCO No.55, SECTOR-25, HUDA, PANIPAT**

Ph. - (0180) 2672037, Telefax - 2664951, E-mail: [hspcbropr@gmail.com](mailto:hspcbropr@gmail.com)

No. HSPCB/PR/2024/ 2719

Dated 29/01/2024

To

M/s National Fertilizer Limited (NFL),  
 Gohana Road, Panipat

**Sub:- Show cause notice for imposition of Environmental Compensation for the improper handling of Hazardous Waste in violation of Hazardous and other Waste (Management & Transboundary Movement) Rules, 2016 as per board policy order dated 22/12/2021 for the Methodology for Assessment Environmental Compensation.**

Whereas Original Application (O.A) No.620/2022 under Section 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as 'NGT Act, 2010') has been registered on a letter petition sent by Mr. Kaushal Kishore Vishwakarma, resident of village Bhabhuwa Madhya Pradesh, which has been treated and registered as Original Application, complaining about non-compliance of order dated 17.01.2022 passed by this Tribunal in O.A No. 72/2019 titled as Rakesh Singh Vs. State of Punjab..

Whereas the Hon'ble NGT vide orders dated 08/01/2024 made following observations:

"8. So far as disposal of carbon slurry by respondent no. 4-NFL, Bhatinda and respondent no. 7-NFL, Panipat is concerned upto date status reports and action plans have not been filed by respondents no. 4 and 7.

9. Action Taken Reports/Action Plan with all requisite details be filed by respondents no. 4 and 7 within one month by e-mail at [judicialngt@gov.in](mailto:judicialngt@gov.in) preferably in the form of searchable PDF/OCR Supported.PDF and not in the form of Image PDF.

10. Despite unjustified continued storage of carbon slurry by respondents no. 4 and 7 and also inaction/delay on their part in disposal thereof in accordance with mandatory statutory provisions, no action has been taken by Punjab State Pollution Control Board and Haryana State Pollution Control Board for imposition of environmental compensation and also prosecution of the defaulting officers/officials and Punjab State Pollution Control Board and Haryana State Pollution Control Board are directed to initiate appropriate proceedings for imposition of environmental compensation and prosecution of the defaulting officers/officials in accordance with law and file Action Taken Report within one month by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF."


Whereas the said site was visited on dated 29/01/2024 by HSPCB and representative of NFL, Panipat. The following violations of Hazardous and other Waste (Management & Transboundary Movement) Rules, 2016 were observed at site:

1. The unit had stored the carbon slurry in the open pond. Wherein the hazardous waste is to be stored in covered area.
2. The hazardous waste is stored by the unit for the period of more than 90 days.
3. Unit has not provided display board outside the factory premises in accordance the orders dated 14/10/2003 of the Hon'ble Supreme Court passed in the matter of WP NO. 657/1995; Research Foundation for Science Technology and National Resource Policy Versus Union of India & Anr.
4. No action plan has been submitted by the unit for disposal of carbon slurry as per the observation raised by the Hon'ble NGT.

In view of the above, you are hereby show caused for **15 days** as to why Environmental compensation not to be imposed for the damage caused to the environment, for above mentioned non-compliance of Hazardous and other Waste (Management & Transboundary Movement) Rules, 2016. You are also asked to submit the details area of pond in which carbon slurry is being stored alongwith the

quantity of the Waste stored at the above mentioned site and No. of days required for the final disposal of carbon slurry.

In case you fail to comply with the non-compliances mentioned above within the above mentioned stipulated time period, it will be presumed that you have nothing to say in this regard and accept the status as above, which will warrant the imposition of Environmental Compensation as per board policy order dated 22/12/2021 for the Methodology for Assessment Environmental Compensation.


  
Regional Officer  
Panipat Region

Endst.:No.HSPCB/PR/2024/ 2720-2721

Dated: 29/01/2024

A copy of the above is forwarded to the following for information, please:

1. The Deputy Commissioner, Panipat
2. The Chairman, Haryana State Pollution Control Board, Panchkula

  
Regional Officer  
Panipat Region



**नेशनल फर्टिलाइजर्स लिमिटेड**  
(भारत सरकार का उपक्रम)  
एन एफ एल  
पानीपत इकाई: गोहाना रोड, पानीपत-132106(हरियाणा)  
दूरभाष: 0180-2652481  
फैक्स: 0180-2652515  
PANIPAT UNIT



**NATIONAL FERTILIZERS LIMITED**  
(A Government of India Undertaking)  
Panipat Unit: Gohana Road, Panipat-132106 (Haryana)  
Phone: 0180-2652481  
Fax: 0180-2652515 GST No. 06AAACN0189N1Z8

No. NFL/PT/LAB/H/2024/48 / 418

Date: 02.02.2024

Regional Officer, Panipat Region  
Haryana State Pollution Control Board,  
SCO 55, Sector-25, HUDA  
Panipat (Haryana)

Respected Sir,

Ref: HSPCB/PR/2024/2719 Dated 29/01/2024

**Sub.:- Reply to Show cause notice dated 29.01.2024 for imposition of Environment Compensation for the improper handling of Hazardous Waste in violation of Hazardous and other waste (Management & Transboundary Movement) Rules, 2016 as per board policy dated 22/12/2021 for the Methodology for Assessment Environmental Compensation.**

**1. The unit had stored the carbon slurry in the open pond. Wherein the hazardous waste is to be stored in covered area.**

Panipat Unit was using Fuel Oil (FO) as feedstock for production of Urea till March'2013. Carbon Slurry used to get generated during the Partial Oxidation Process of Technology Supplier due to thermal cracking of fuel oil, as by product, which was inevitable. Carbon Slurry was earlier sold as Industrial Product. Carbon Slurry so generated was sold to various industries such as Ink manufacturers, Paint manufacturers, re-treated tyres etc., through third parties.

Keeping in view of the environmental sustainability and adoption to cleaner fuels, Panipat Unit was revamped in the year 2013 and since then Natural Gas (NG) is being used as feedstock for production of Urea. This has resulted in lower specific energy consumption of urea and reduced carbon footprint. After feedstock changeover from Fuel Oil to Natural Gas, there is no generation of Carbon Slurry from the unit. Carbon slurry lying in the ponds was last generated in the month of November-2012 and as on date the old stocks of Carbon Slurry is still lying in ponds. No carbon slurry is generated in the Unit as on date.

Carbon slurry is lying in separate designated Carbon pond details of which are as under:

- i. Part A – Area = 33150.00 SqM (Quantity Stored 56285 MT)
- ii. Part B—Area = 9000 Sqm (Quantity Stored 66315 MT)
- iii. Total = 42150.00 SqM.(Total 1,22,600 MT as evaluated by M/sPDIL)
- iv. Average depth of carbon = about 6 mtr

The pond is brick lined with HDPE lining and hence no chance of leaching to the ground. Pond is surrounded by trees. The average height of dyke (earthen embankment) from top of Carbon to top of earthen embankment is 2.4 mtr. Considering the height of the embankment and very high water holding capacity of carbon, there was no room for carbon particles being carried off along with air.

कारपोरेट कार्यालय: ए-11, सेक्टर 24, नौयाडा, गौतमबुद्ध नगर, उत्तर प्रदेश पिन 201 301 ☎: 0120-2412294, 2412445 एक्स 3092201 से 08, फैक्स: 2412397  
CORPORATE OFFICE: A-11, SECTOR 24, NOIDA, GAUTAM BUDH NAGAR (UP) - 201 301, ☎: 0120 - 2412294, 2412445 & 3292201 to 08, FAX: 2412397  
रजि. कार्यालय: स्कॉप काम्प्लेक्स, कोर-III, 7, इस्टीट्यूशनल एरिया, लोधी रोड, नई दिल्ली- 110 003. ☎: 011-24360066, फैक्स: 24361553.

*(Signature)*

As a practice carbon slurry was stored in the above said open ponds since 1979 & at that moment Carbon slurry was not in hazardous category. Chemically Carbon slurry has very high ignition temperature, carbon slurry cannot react/burn with oxygen/air at ambient temperature. Considering the vast area of the ponds, nature at ambient temperature and the quantity stored, it was not viable to make the ponds covered. Hence considering the above facts, it is requested to waive off for storage in covered area.

**2. The hazardous waste is stored by the unit for the period of more than 90 days.**

It is imperative to mention that 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. As per the said Rules, Carbon Slurry could only be lifted by 'intermediaries' from the Ponds and could not be sold to consumers/industries directly. Furthermore, only valid authorized parties registered with the CPCB or the concerned SPCB could participate in the tendering process.

The E-auction No. MSTC/NRO/NATIONAL FERTILIZERS LIMITED/9/GOHANA ROAD/19-20/32756, dated 02.03.2020, was conducted by Metal Scrap Trade Corporation Limited (hereinafter referred to as "MSTC") on behalf of NFL on an "As is where is basis" and "Per metric basis", for the lifting of the Carbon Slurry from the Ponds of the NFL Panipat, in accordance with the said Rules. Accordingly, M/s Shubham Sales Corporation, Rohtak came to be the H1 Bidder in the Tender and was awarded the Contract for lifting of Carbon Slurry.

Due to administrative hindrances, NFL terminated the instant Contract vide termination letter, dated 20.05.2023 and the delisting letter dated 09.06.2023 to M/s Shubham Sales Co, Rohtak and the same was challenged by the party before the Hon'ble Delhi High Court. Meanwhile, settlement has been arrived between the Parties and the Writ Petition pending before the Hon'ble High Court of Delhi stands as withdrawn.

As on date, NFL Panipat Unit has issued the Delivery Order no. NFP/ST/D-209/19-20/32756 dated 15.12.2023 to the M/s Shubham Sales Co. for lifting of carbon slurry from NFL ponds and Party is in process for lifting of carbon slurry from the ponds as per the T&C of the contract.

**3. Unit has not provided display board outside the factory premises in accordance the orders dated 14/10/2003 of the Hon'ble Supreme Court passed in the matter of WP NO.657/1995; Research Foundation for Science Technology and National Resource Policy Versus Union of India & Anr.**

Display board has been provided, photographs copy enclosed(Annexure-1)

**4. No action plan has been submitted by the unit for disposal of carbon slurry as per the observation raised by the Hon'ble NGT.**

It is pertinent to mention here that in terms of the Order dated 22.02.2024 passed by the Hon'ble NGT in the matter Kaushal Kishore Vishwakarma Vs State of Punjab & Ors in OA No 620/2022, NFL had been given one month time to file Action Taken/Reports/Action Plan. We are in process of filing the same before NGT within one month time through our advocate.

M/s Shubham Sales Co. Bhiwani Road, Rohtak (Haryana) which is authorized for collection, transportation and Utilization of carbon slurry under category 18.2 of Schedule-1 by

*Shubham Sales Co.*



HSPCB has been lined up for lifting of carbon slurry from the Unit. Requisite steps have been taken by NFL Panipat (copy of the Delivery Order issued to the party is enclosed) for lifting of carbon from the ponds. Further for the purposes of smooth execution of the Contract and lifting of the material NFL has constructed the path ways, Entry and Exit Gates, installation of the CCTV camera for security. Pictures of the same are attached (Annexure-2) herewith for your kind reference please.

In view of the above explained facts and prevailing circumstances, it is humbly submitted that no Environmental Compensation be imposed on NFL since all the precautionary measures have been taken and the process of Lifting of the Caron slurry is in process and NFL has not caused any damage whatsoever to the environment, and has not contravened the above mentioned non-compliance of Hazardous and other Waste (Management & Transboundary Movement) Rules, 2016.

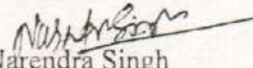
We assure you that NFL is committed to comply of all statutory provisions of Hazardous and other Waste (Management & Transboundary Movement) Rules, 2016.

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

Thanking You

Encls.

Yours faithfully  
For & on behalf of  
National Fertilizers Limited

  
नरेन्द्र सिंह / Narendra Singh

मुख्य प्रबन्धक(प्रयोगशाला/ Chief Manager (Lab.)

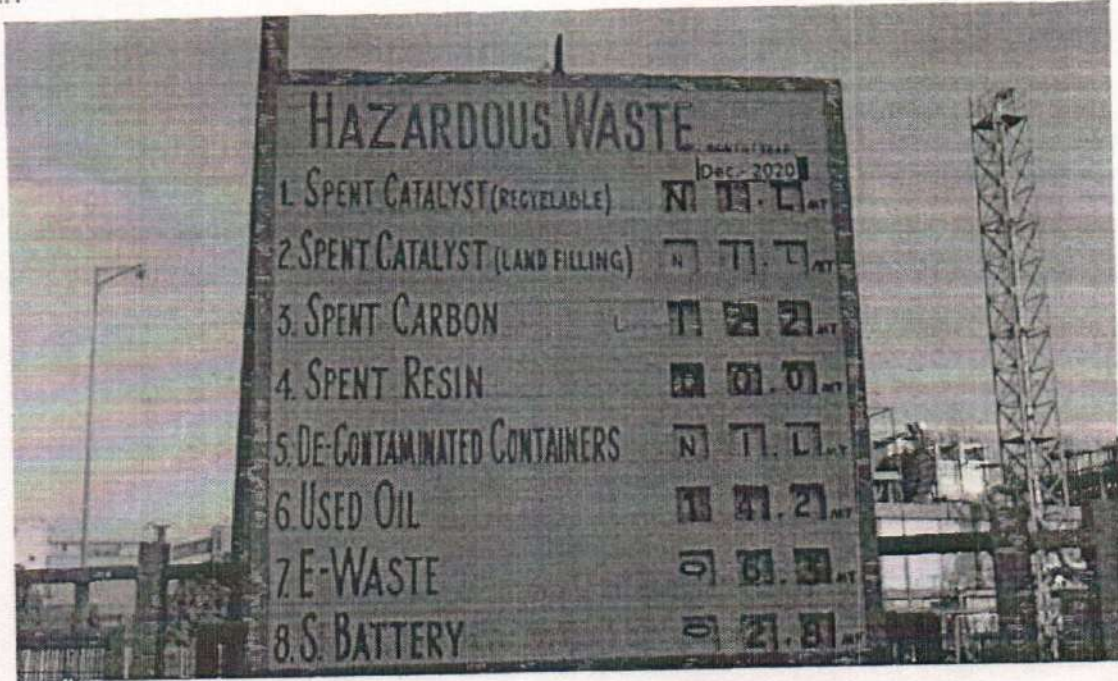
नेशनल फर्टिलाइजर्स लिमिटेड

National Fertilizers Limited

पानीपत (हरियाणा) – 132106

Panipat (Haryana) – 132106

ई-मेल आई.डी./ Email ID: [nshada@nfl.co.in](mailto:nshada@nfl.co.in)



HAZARDOUS WASTE		REMARKS
1. SPENT CATALYST (RECYCLABLE)	N T T	DEC-2020
2. SPENT CATALYST (LAND FILLING)	N T T	
3. SPENT CARBON	T T T	
4. SPENT RESIN	T T T	
5. DE-CONTAMINATED CONTAINERS	N T T	
6. USED OIL	T T T	
7. E-WASTE	T T T	
8. S. BATTERY	T T T	

*Mishra*



## नेशनल फर्टिलाइजर्स लिमिटेड

(भारत सरकार का उपक्रम)

गोहाना रोड, पानीपत, हरियाणा - 132 106

(ISO-9001, ISO-14001 एवं OHSAS-18001 इकाई)

फोन: 0180-2652481, 483 एवं 485, 0180-2681304

फैक्स: 0180-2652515

ई-मेल: [npatil@nfl.co.in](mailto:npatil@nfl.co.in)

GST No: 06AAACN0189N1Z8

website: [www.nationalfertilizers.com](http://www.nationalfertilizers.com)



## National Fertilizers Limited

(A Government of India Undertaking)

Gohana Road, Panipat, Haryana - 132 106

(An ISO-9001, ISO-14001 & OHSAS-18001 Unit)

Phone: 0180-2652481, 483 & 485, 0180-2681304

FAX : 0180-2652515

E-mail: [npatil@nfl.co.in](mailto:npatil@nfl.co.in)

CIN: L74899DL1974GO1007417

website: [www.nationalfertilizers.com](http://www.nationalfertilizers.com)

Ref. No.: NFP/ST/D-209/19-20/32756

Speed Post

Dated: 15.12.2023

→ M/s Shubham Sales Co.,  
5.30 K.M Mile Stone,  
Bhiwani Road,  
Rohtak-124001, Haryana

GST: 06AEBFS9696F1ZJ

Sub: Sale of Carbon Slurry Lying in Ponds at NFL, Panipat.

Dear Sir,

In reference to your bid against MSTC e-Auction No. MSTC/NRO/NATIONAL FERTILIZERS LIMITED/9/GOHANA ROAD/19-20/32756 Dated 02.03.2020, we are pleased to permit you to lift the "Carbon Slurry on 'As is Where is and No Complaint basis", under HWM Rules 2016-Cat. 18.2 Schd.-I, from designated two numbers of Ponds at NFL's Panipat Unit, at the tender rate of Rs. 1500/- per MT, plus applicable taxes on the following conditions:

1. You will be required to lift the entire quantity of carbon slurry lying in the ponds at NFL, Panipat Unit, at the tender rate of Rs. 1500/- per MT, plus applicable taxes.
2. Initially, NFL will permit you to lift the quantity of carbon slurry against the advance amount of Rs. 6,48,52,289/- already deposited with NFL.
3. Daily Delivery Instructions shall be issued by NFL to you in this regard.
4. Thereafter, you will be required to deposit security amount for lifting the quantity of carbon slurry equivalent to that amount.
5. NFL will retain Security Deposit of Rs. 91,95,000/- already deposited with NFL as performance security till successful contract completion.

Kindly acknowledge the receipt of the same.

For & on behalf of  
National Fertilizers Ltd.,

(Mahesh Patil)

Chief Manager (Mtls.)

महेश पाटिल

मुख्य प्रबंधक (सामग्री)

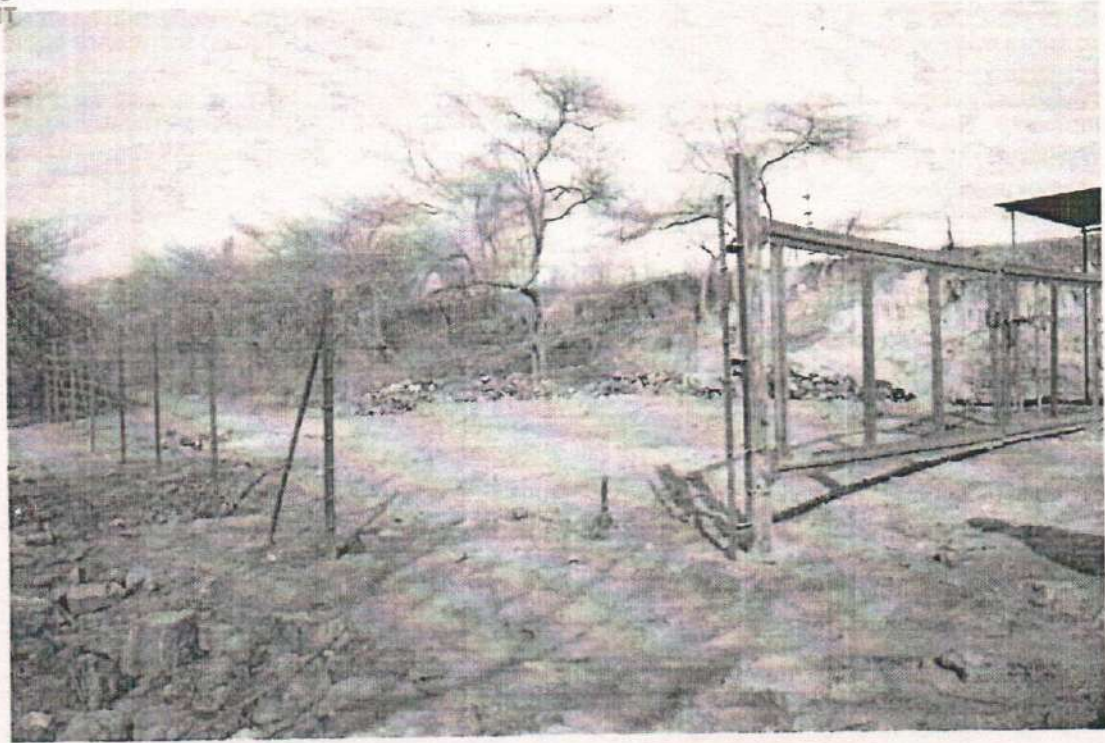
काप्योरेट कार्यालय : ए-11, सेक्टर 24, नोएडा, गौतम बुद्ध नगर, उत्तर प्रदेश विंग 201 301 ☎ 0120-2412294, 2412445 एवं 3092201 से 08, फैक्स 2412397  
CORPORATE OFFICE : A-11, SECTOR 24, NOIDA, GAUTAM BUDDH NAGAR (UP) - 201 301. ☎ 0120-2412294, 2412445 & 309221 to 08, FAX 2412397  
रजि. कार्यालय : राष्ट्रीय कॉम्प्लेक्स, ब्लॉक-III, 7, इंदिरा प्रस्थुमन एरिया, लोधी रोड, नई दिल्ली - 110 003. ☎ 011-24388006, फैक्स 24381153, सीआरएन: L74899DL1974GO1007417  
REGD. OFFICE : SCOPE COMPLEX, CURS-HIL 7 INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI - 110 003. ☎ 011-24388006, FAX 24381153. CIN: L74899DL1974GO1007417  
Website: [www.nationalfertilizers.com](http://www.nationalfertilizers.com)

Road for Entry of trucks

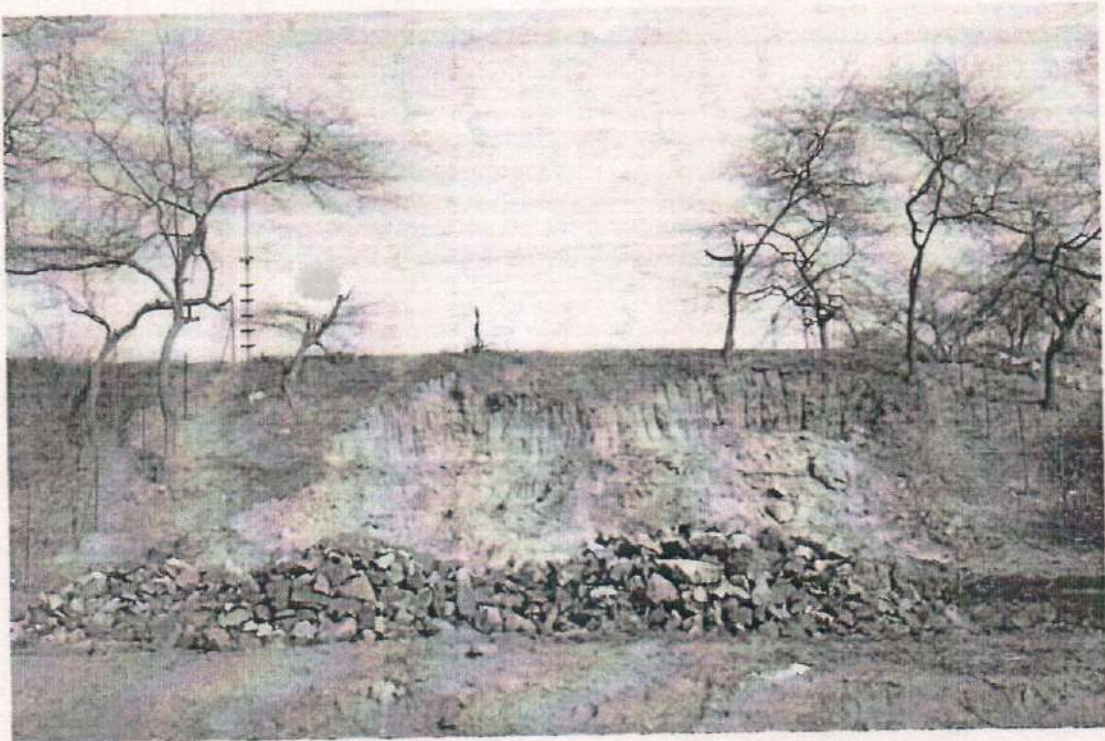
Annexure-2



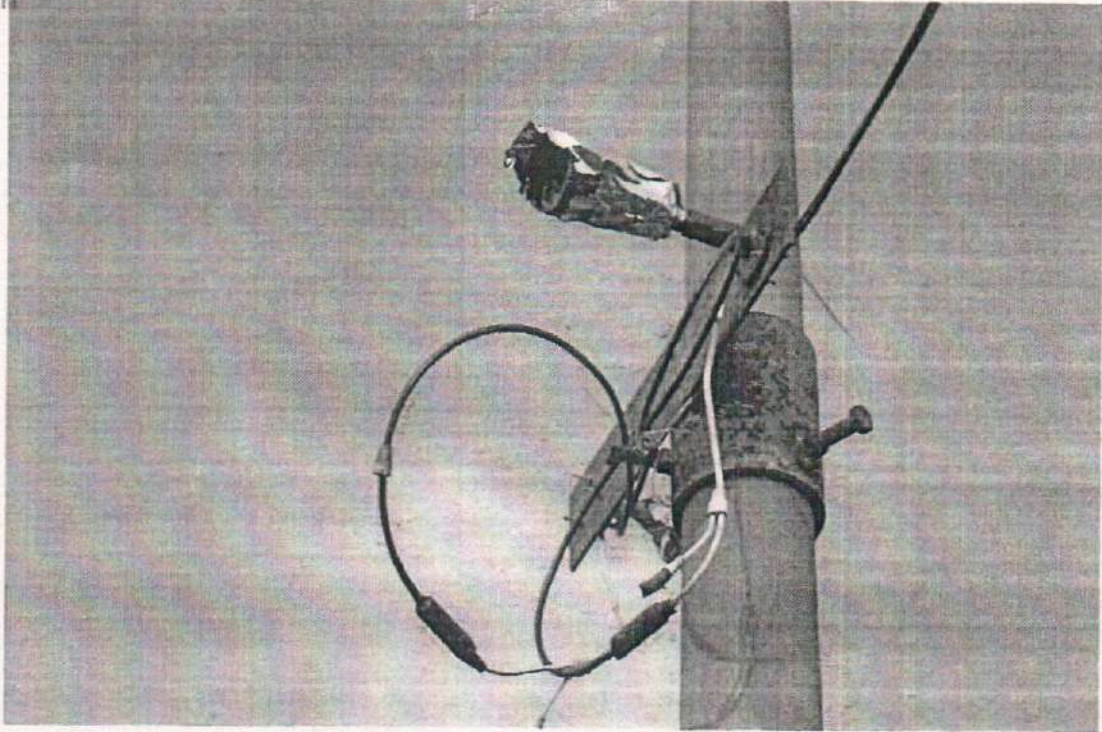
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Truck loading area



*Mu Suresh*



*Handwritten signature*



*M. S.*



Annexure-R/6

**HARYANA STATE POLLUTION CONTROL BOARD**  
**SCO No.55, SECTOR-25, HUDA, PANIPAT**

Ph. - (0180) 2672037, Telefax - 2664951, E-mail: [hspcbropr@gmail.com](mailto:hspcbropr@gmail.com)

No.HSPCB/PR/2024/2846

To

Dated 15/02/2024.

The Chairman,  
 Haryana State Pollution Control Board,  
 Panchkula.

Kind Attn: SEE, Planning Cell (HQ)

**Subject: Recommendation for Levying Environmental Compensation on M/S National Fertilizer Limited, Gohana Road, Panipat**

1.	Name & address of the unit	M/s National Fertilizer Limited, Gohana Road, Panipat
2.	Name and designation of the officer(s) inspected the unit	Bhupinder Singh, Regional Officer, Panipat Kuldeep Singh, AEE, Panipat
3.	Product(s) and bio-products	Fertilizer (Basic) excluding formulation
4.	Manufacturing process	Process involved in manufacturing of Basic Fertilizer
5.	Status of CTE	Obtained
6.	Status of CTO	Obtained valid upto 30/09/2026
7.	Date of inspection of the unit	29/01/2024
8.	Date of commissioning	01/09/1979
9.	Detail of violation observed during inspection:	The Carbon slurry stored is not disposed by the unit and not lying in covered shed.
10.	Category of the unit	Red
11.	Complaint/Court case, if any.	NGT Matter (OA No.620/2022)
12.	Detail of sampling and analysis of effluent/air emission exceeding the norms.	Not Required
13.	Reasons for not collection of samples, if not collected.	Inspection conducted to check the hazardous waste not disposed by the unit as per order.
14.	Detail of Show Cause Notice for closure and EC issued with date.	Show cause notice issued vide letter No. 2719 dated 29/01/2024
15.	Reply of Show Cause Notice, if any received.	Reply submitted by the unit on 07/02/2024
16.	No. and date of closure order issued by the Head Office.	NA
17.	Compliance of closure order if applicable.	NA
18.	Present status of compliance made by the unit, if any after issue of show cause notice.	The unit M/s National Fertilizer Limited, Gohana Road, Panipat is engaged in the manufacturing of Fertilizer (basic) excluding formulation. In OA No.620/2022 titled Kanshal Kishore Vishwakarma Vs State of Punjab & Ors Hon'ble NGT, New Delhi passed an order dated 08/01/2024 with direction as mentioned

below:-

"Despite unjustified continued storage of Carbon Slurry by Respondents No.4 and 7 and also in action/delay on their part in disposal thereof in accordance with mandatory statutory provisions, no action has been taken by Punjab Pollution Control Board and Haryana State Pollution Control Board for imposition of Environment Compensation and also prosecution of the defaulting officers/officials and Punjab Pollution Control Board and Haryana State Pollution Control Board directed to initiate appropriate proceeding for imposition of Environmental Compensation and also prosecution of the defaulting officers/officials in accordance with law and file action taken report with one month by e-mail at [judicial-ngt-@gov.in](mailto:judicial-ngt-@gov.in) preferably in the form of searchable PDF/OCR supported PDF and not in the formed image PDF".

The unit M/s National Fertilizer Limited, Gohana Road, Panipat is party in the said matter as Respondent No.7. The unit M/s National Fertilizer Limited, Gohana Road, Panipat has submitted status report before the NGT that it has not generated carbon slurry since November, 2012. The unit has informed that the quantity of carbon slurry stored in the pond is 122600 MT, which is yet to be disposed off by them.

The said unit was visited by the team of Regional Office, Panipat on 29/01/2023 to verify the status of unit as mentioned in the order dated 08/01/2024. During inspection, it was found that two ponds have been provided by the unit for storage of carbon slurry of quantity 122600 MT. A show cause notice was issued to the unit vide this office letter No.HSPCB/PR/2024/2719 dated 29/01/2024. The unit has submitted reply to the observation raised in this office on 07/02/2024 (Copy attached). The observation raised with comment upon reply submitted are given in table below:-

Sr.No.	Observation	Comment upon reply
1.	The unit has stored the carbon slurry in the open pond wherein the hazardous waste is to be stored in covered area.	The unit has submitted that they have provide two ponds with brick lined with HDPE lining and hence no chance of leaching to the ground. The pond is surrounded by trees and there was no room for the carbon particle to carry alongwith air. The unit has submitted that it is not viable to cover the cast area of the pond. Whereas as per SoP for utilization of carbon residue generated from fertilizer industry the unit should provide designate space for storage of spent carbon (carbon residue) under cool, dry will ventilated and covered storage of shed so as to eliminate water intrusion.
2.	The hazardous waste is stored in the premises	The unit has informed vide its reply dated 07/02/2024 that earlier carbon slurry was not covered under HOWM

		for more than 90 days.	<p>Rules, 2008 and it was covered under the ambit of hazardous waste on 04/04/2016 at Category No.18.2 of Schedule-1 after notification of HOWM Rules, 2016.</p> <p>The unit has informed that e-auction was carried out by them on 02.03.2020 and M/s Shubham Sales Corporation, Rohtak came as Higher Bidder in tender and was awarded the contract for lifting of carbon slurry, but due to administrative reason, NFL terminated the contract with M/s Shubham Sales vide termination letter dated 20.05.2023.</p> <p>As on date NFL Panipat unit has issued delivery order dated 15/12/2023 to the M/s Shubham Sale Co. for lifting of carbon slurry from NFL ponds and party is in process for lifting of carbon slurry. Hon'ble NGT has not considered justification given by them as mentioned in para 10 of the order dated 08/01/2024 which was submitted by the unit before the NGT.</p>
		3. Unit has not provided display Board under HOWM Rules, 2016	Photographs of display board provided by the unit at main gate has been submitted by the unit.
		4. No Action Plan has been submitted by the unit for disposal of carbon slurry	The unit has submitted that one month time have been given by NGT for submission of Action Plan and it will be submitted by them through their advocate before NGT.
		<p>As the unit required to dispose the hazardous waste lying in their premises which still have not been done by them. However, they have made agreement with the authorized recycler M/s Shubham Sales Corporation Limited, Rohtak for disposal of hazardous waste from the premises of NFL but lifting of hazardous waste has not been started at site.</p>	
19.	Cases for levying environmental compensation:-	The hazardous waste is lying in the premises of unit from 04/04/2016 since the carbon slurry covered at Sr.No.1&2 of HOWM Rules, 2016	
20.	Date of last inspection and sampling i.e. prior present inspection (Water and/or Air and/or other pollution).	Not required	
21.	Justification of imposing environmental compensation for Last five year.	Not related in present case as per EC equation.	

22.	Final reasoned recommendations in respect of EC and documents attached to be verified.	Hon'ble NGT has directed vide order dated 08/01/2024 to impose EC upon the unit. As the unit till date has not dispose its hazardous waste therefore Environmental Compensation need to be imposed upon the unit.
23.	PI-Pollution Index (Red: 80, Orange:50 and Green:30)	The violation made by the unit falls under B1 category at Sr.No.4 to table-1 As per order No.2343-2350 dated 22/12/2021 the unit falls for violation of HOWM Rules, 2016 the Environment Compensation to be levied for violation of HOWM Rules, 2016. As per categorization of violations and financial penalty and Environment Compensation the violation of the unit falls at Category B. Therefore Environmental Compensation may be calculated as per prescribed for equation No.1 $EC=Q \times ERF \times R$
24.	Q-	Noticed or observed quantity (tonne) of hazardous or other wastes which have not been managed in compliance with various provisions of Acts/Rules/Guidelines/Conditions of the authorization/direction issued by CPCB/SPCB/PCC/MoEF&CC. The stored quantity at unit premises is 122600 MT.
25.	ERF-	Environment Risk Factor as per Table-1. In Table-1 of the order 22/12/2021 it falls at Sr.No.4 i.e. waste found stored beyond the stipulated period (refer Rule 8 of the HOWM Rules, 2008) and therefore taken as 0.1.
26.	R-	Environment Compensation factor, which may be taken as Rs.30,000/-
27.	$EC=Q \times ERF \times R$	$122600 \times 0.1 \times 30000$
28.	Total Amount calculated	36,78,00,000/-

It is therefore, recommended that environment compensation as purposed may be levied upon the unit for violation of HOWM Rules, 2016 in compliance of NGT order dated 08/01/2024 in O.A. No.620/2022.

DA/NGT order dated 08/01/2024  
SIR dated 29/01/2024  
Copy of SCN dated 29/01/2024  
Copy of reply of unit 02/02/2024  
Copy of SoP

  
Bhupinder Singh, 15/2.  
Regional Officer, Panipat  


Annexure - R/17

**Proceedings of the meeting of Environmental Compensation Assessment Committee held on 09.10.2024 under the chairmanship of Member Secretary, HSPCB**

The Board, in consideration of the report of the CPCB in-house Committee for Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund, adopted the modalities/methodology for assessing, imposing and utilization of environmental compensation from the polluting units in the State of Haryana vide letter no. HSPCB/PLG/2021/2343 2381 dated 22.12.2021 as applicable.

Further, the method for Determination of Environmental Compensation to be recovered for violation of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 from the polluting units in the State of Haryana, the formula as per Section - A and Section - B of violations and financial penalty and environmental compensation is as under:-

A. **Category A:** Only procedural violations of HOWM Rules, 2016, which has not caused damage to environment or third party

B. **Category B:** violations causing environmental damage including procedural violations.

i. **Category B1:** Cases where mismanagement of hazardous or other waste has resulted or resulting into environmental damage and such damages liability including assessment of remediation required can be assessed in terms of cost also by applying provisions laid down under CPCB's "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty".

ii. **Category B2:** Cases where mismanagement of hazardous or other waste may have caused environmental damage and such damages & remediation required including cost thereof are difficult to assess

**2. Methodology for Assessing Financial Penalty and Environmental Compensation.**

A. Financial Penalty

B. Environmental Compensation Under such wide variables, the following quantity based environmental compensation calculation in Rupees may be used and be imposed on violating facility operator:

$$\text{Environmental Compensation (EC)} = Q \times \text{ERF} \times R$$

Where,

Q is noticed or observed quantity (in tonne) of hazardous or other wastes which have not been managed in compliance with various provisions of the Acts/Rules/Guidelines/conditions of the authorization/directions issued by CPCB/SPCB/PCC/MoEF&CC (barring procedural violations which have not caused environmental damage)





ERF = Environmental Risk Factor which is a number (as given in Table 1 below) denoting the increasing degree of risk to the environment and human health due to the scenarios as given in the Table 1.

**Table 1: Environmental Risk factor (ERF)**

Sr. no.	Violation	ERF	
		For hazardous waste	For other waste
1.	When hazardous and other wastes is disposed at unauthorized place or handed over or sold to unauthorized party	1.5	0.3
2.	When treatment has not been imparted, as required, but only partial treatment has been given (by TSDF/Actual user)	1.0	0.2
3.	When product (derived from hazardous or other waste) is not confirming to prescribed specification or is specified for restricted use but sold in open market against (in case of actual user)	1.0	0.2
4.	Wastes found stored beyond the stipulated period (refer Rule 8 of the HOWM Rules, 2008)	0.1	0.05

\*Applicable to waste generated indigenously only

R= Environmental Compensation factor, which may be taken as Rs. 30,000.

**Note:**

- i) For facility engaged in generation/ recycling/ utilizing/ disposing of hazardous or other waste and such wastes have never been handed over to common TSDF/ actual user;

**Case I:** If authorization has been taken at any point of time, in such cases, Q may be taken as below:

Q= Quantity in terms of tone/per year, as specified in authorization (one year =300 days) × Y

**Where, Y** is Number of years of operation of the facility and may be considered as given in Table 6 below. In case authorization is given in quantity/day, then convert in tone/year by multiplying the same with 300 days.

A committee has been constituted vide order No. HSPCB/PLG/2022/138645 dated 20.10.2022 and reconstituted vide order no. I/173740/2023 dated 20.09.2023 to calculate the Environmental Compensation. The following Members of the committee were present in the meeting:-

Sh. Pardeep Kumar, Member Secretary, (Chairman )  
 Sh. Bhupender Singh Rinwa, CEE (HQ), ( Member)  
 Sh. Satinder Pal, Sr. EE (HQ), ( Member)  
 Sh. Nirmal Kumar, Sr. EE(HQ), (Member)

The proposal has been placed before the committee during its meeting held on 09.10.2024 by the Sr. Environmental Engineer - SWM Cell (HQ) for assessing the environmental compensation for causing the damage to the environment against the following units:-

**M/s National Fertilizer Limited, Gohana Road, Panipat.**

Earlier the EC case was put up before the committee, on 06.03.2024 and the case was deferred with the remarks that "RO Panipat should resubmit the EC case after collecting the relevant information from the unit" Now, RO has resubmitted the case vide his letter dated 07.10.2024 for imposing EC of Rs. 35,84,19,300/- under HOWM Rules, 2016 and informed that the said unit is engaged in manufacturing of Basic Fertilizer and is a large scale unit and covered under Red Category of consent management of the Board. In OA no. 620 of 2022 titled as Kanshal Kishore Vishwakarma vs State of Punjab & Ors Hon'ble NGT passed an order dated 08.01.2024 with the direction as mentioned below:-

"Despite unjustified continued storage of carbon slurry by respondents no. 4 and also inaction/delay on their part in disposal thereof in accordance with mandatory statutory provisions. No action has been taken by PPCB and HSPCB for imposition of EC and also prosecution of the defaulting officers/officials and PPCB and HSPCB has been directed to initiate appropriate proceeding for imposition of EC and also prosecution of the defaulting officers/officials in accordance with law and file ATR within one month."

The AEE concerned informed to the committee that said unit is a party in the said matter as respondent no. 7. The unit has submitted status report before NGT that it has not generated carbon slurry since November, 2012. The unit has informed that the quantity of carbon slurry stored in the pond is 122600 MT, which is yet to be disposed of by them.

The unit was visited on 29.01.2024 and accordingly show cause notice for closure was issued to the unit vide letter no. 2719 dated 29.01.2024, to which unit has submitted the reply on 07.02.2024 and stated that they have provided two brick lined ponds with HDPE lining for storage of carbon slurry and hence there is no chance of leaching to the ground. The ponds are surrounded by trees and there is no room for

*Ch*      *Bsu*

the carbon particles to carry along with air. The unit has submitted that it is not viable to cover the vast area of the ponds. Whereas, as per SOP for utilization of carbon residue generated from fertilizer industry the unit should provide designated space for storage of spent carbon/slurry (carbon residue) under cool, dry, well ventilated and covered storage shed so as to eliminate water intrusion. Further, unit has informed that earlier carbon slurry was not covered under HOWM Rules, 2008 and it was covered under the ambit of hazardous waste on 04.04.2016 at Cat. No. 18.2 of Schedule-1 after notification of HOWM Rules, 2016.

The unit has informed that e-auction was carried out by them on 02.03.2020 and M/s Shubham Sales Corporation, Rohtak came as Higher Bidder in tender and was awarded the contract for lifting of carbon slurry, but due to administrative reason NFL terminated the contract with them vide termination letter dated 20.05.2023. However, as on date unit has issued delivery order dated 15.12.2023 to M/s Shubham Sale Co. for lifting of carbon slurry from NFL ponds and party is in the process of lifting of carbon slurry. But, Hon'ble NGT has not considered the justification given by them as mentioned in its order dated 08.01.2024 which was submitted by the unit before Hon'ble NGT.

Therefore, RO vide letter dated 07.10.2024 recommended that EC of Rs 35,84,19,300/- may be imposed on the unit for violation under HOWM Rules, 2016 as per the formula for determination of environment compensation to be recovered for violation of Hazardous and Other Waste (Management and Trans boundary movement) rules, 2016 the categorization of violations and financial penalty and Environment Compensation the violation of the unit falls at Cat. B as per order dated 22.12.2021. Therefore, the EC is calculated as per the formula prescribed under-

$$\text{Environmental Compensation (EC)} = Q \times \text{ERF} \times R$$

Where, Q is noticed or observed quantity (in tons) of hazardous or other wastes which have not been managed in compliance with various provisions of the Acts/Rules/Guidelines/conditions of the authorization/directions issued by CPCB/SPCB/PCC/MoEF&CC (barring procedural violations which have not caused environmental damage), ERF = Environmental Risk Factor which is a number denoting the increasing degree of risk to the environment and human health, R= Environmental Compensation factor, which may be taken as Rs. 30,000. In table-1 of the order dated 22.12.2021 unit falls at sr. no. 4 i.e. waste found stored beyond the stipulated period (refer Rule 8 of the HOWM Rules, 2008) and therefore taken as 0.1. The carbon slurry covered under HOWM Rules, 2016 from 4<sup>th</sup> April, 2016 which needs to be disposed off within 90 days as per the provisions of said rules. Hence,

the carbon slurry was required to be disposed of by 3<sup>rd</sup> July, 2016 but unit failed to do so. The unit get started lifting of the waste from February, 2024 through vendor M/s Shubham Sales Co., Rohtak and till 07.10.2024, only 3126.90MT of waste has been lifted from the site.

The month wise lifting of waste is given below:-

Sr. No.	Month	Carbon Slurry Lifted (MT)
1.	February, 2024	21.49
2.	March, 2024	303.7
3.	April, 2024	972.86
4.	May, 2024	976.96
5.	June, 2024	559.60
6.	July, 2024	236.58
7.	August, 2024	0.00
8.	September, 2024	55.71
Total		3126.90

Total 3126.90 MT of waste have been lifted from the site but still 1,19,473.1 MT of waste is lying with the unit and accordingly the value of Q is taken as 1,19,473.1 MT, ERF is taken as 0.1. The unit is thus liable to pay the environmental compensation as per the letter no. HSPCB/PIG/2021/2343-2381 dated 22.12.2021 of the Board.

$$\text{Environmental Compensation (EC)} = Q \times \text{ERF} \times R$$

Where, Q is noticed or observed quantity (in tons) of hazardous or other wastes which have not been managed in compliance with various provisions of the Acts/Rules/Guidelines/conditions of the authorization/directions issued by CPCB/SPCB/PCC/MoEF&CC (barring procedural violations which have not caused environmental damage), ERF = Environmental Risk Factor which is a number denoting the increasing degree of risk to the environment and human health. R= Environmental Compensation factor, which may be taken as Rs. 30,000.

#### Personal hearing

Sh. Kuldeep Singh, AEE, attended the hearing on behalf of RO Panipat, Sh. Narendera Singh and Sh. Seema Chawla representatives of above said unit appeared before the committee to represent their case. The representatives informed that all best efforts were made for disposal of the carbon slurry, but due to less requirement in the market, the disposal of the said waste becomes a difficult task for the unit and requested that minimum compensation be imposed.

**Recommendation**

After detailed deliberation, the committee is of the opinion that the Environment compensation recommended by RO is justified and accordingly, the environmental compensation is calculated and finalized as under:-

$$EC=Q \times ERF \times R = 1,19,473.10 \times 0.1 \times 30000 = \text{Rs. } 35,84,19,300/-$$

(On leave)  
Nirmal Kashyap  
(SEE-HQ)

  
Satinder Pal  
(SEE-HQ)

  
B.S. Rinwa  
(CEE-HQ)

  
Pardeep Kumar, IAS  
(Member Secretary)