

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

Original Application No.620 of 2022

--Applicant

Kaushal Kishore Vishwakarma

Versus

State of Punjab

--Respondent

Short reply of Er. Gurmit Singh, Environmental Engineer, Punjab Pollution Control Board, Regional Office, Bathinda on behalf of Punjab Pollution Control Board.

Respectfully showeth:

1. That briefly stated Mr. Kaushal Kishore Vishwakarma resident of Village Bhabhuwa, Madhya Pradesh has written a letter to the Hon'ble National Green Tribunal complaining about non-compliance of order dated 17.1.2020 (date 17.1.2022 seems to has been written mistakenly in the order dated 1.11.2022) passed by the Hon'ble Tribunal in O.A No. 72 of 2019 titled as Rakesh Singh v/s State of Punjab.

The Hon'ble National Green Tribunal has taken cognizance of the case and the letter petition has been treated as Original Application No. 620 of 2022. In view of the averments made in the application, the Hon'ble Tribunal vide order dated 1.11.2022 has sought the response of the State of Punjab through Chief Secretary, Government of Punjab, State Pollution Control Board, District Magistrate, Bathinda and the project proponent M/s National Fertilizer Limited, Bathinda.

2. That it is pertinent to mention here that the respondent no. 1 i.e. Chief Secretary to Government of Punjab is only a proforma party and has no role to perform in the present case. In view of the facts and circumstances of the case, present reply is being filed by the Environmental Engineer, Punjab Pollution Control Board, Regional Office, Bathinda on behalf of the State

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Pollution Control Board i.e. respondent no.2. The reply may kindly be read in the following paragraphs.

3. That the contention of the applicant Mr. Kaushal Kishore Vishwakarma raised in the instant case about non-compliance of order dated 17.1.2020 passed by this Hon'ble Tribunal in O.A no. 72 of 2019 titled as Rakesh Singh v/s State of Punjab is factually not correct as the compliance of order dated 17.1.2020 of the Hon'ble Tribunal has been duly made by the respondent Punjab Pollution Control Board.
4. That the facts of the case in O.A no. 72 of 2019 titled as Rakesh Singh v/s State of Punjab alongwith action taken and compliance made of the orders of the Hon'ble National Green Tribunal passed from time to time are summarized herein below.
 - 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



email at 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. That it is relevant to mention here that the Joint Committee constituted by the Hon'ble National Green Tribunal in O.A No. 72 of 2019 had submitted its report before the Hon'ble Tribunal on 4.9.2019 with certain recommendations. The point-wise compliance of the recommendations of the Joint Committee report is given herein below in annotated form for kind perusal of the Hon'ble National Green Tribunal:

S.No	Recommendations	Compliance
1	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.	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.
2	The industry shall apply under Rule 9 of HOWM Rules for pre-processing of carbon slurry as per the provisions of HOWM Rules, 2016.	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.
3	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	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

	for Science Technology and National Resource Policy Versus Union of India & Anr.	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.
4	The industry shall provide covered storage shed for processed and un-processed carbon slurry within 03 months. Such storage and processing area shall have impervious lined floor.	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)
5	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.	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.
6	Punjab PCB shall levy and collect (i) financial penalty of Rs. 09 Lacs for the observed violations by enforcing	The industry has deposited Rs. 15.21 lacs (Rs.9,00,000/- +Rs. 6,21,000/-) with the Punjab

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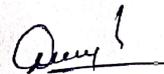
Rule 23(2) of the HoWM Rules, 2016, in accordance with "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Wastes and Penalty' published by CPCB, (ii) apart from the above financial penalty, Environmental Compensation of Rs. 6,21,000/- shall also be recovered for the damages caused to the environment.	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.
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6. That the above recorded facts show the compliance made by the Punjab Pollution Control Board of the recommendations of the Joint Committee report filed in O. A no. 72 of 2019.
7. That the main grievance of the applicant Mr. Kaushal Kishore Vishwakarma in the present case (O.A No. 620 of 2022) is the non-compliance of order dated 17.1.2020 of the Hon'ble National Green Tribunal passed in O.A no. 72 of 2019 titled as Rakesh Singh v/s State of Punjab. In view of the fact that compliance of the order dated 17.1.2020 of the Hon'ble National Green Tribunal passed in O.A No. 72 of 2019 has been duly made by the Punjab Pollution Control Board and the project proponent in question, the present case has become infructuous.

It is, therefore, prayed that the Original Application no. 620 of 2022 may kindly be disposed of with appropriate orders.

Dated:- 15-02-2023

Submitted by



(Gurmit Singh)

**Environmental Engineer,
Punjab Pollution Control Board,
Regional Office, Bathinda
on behalf of Punjab Pollution Control Board**

Item No. 04

Court No. 2

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

Original Application No. 72/2019

Rakesh Jain

Applicant(s)

Versus

State of Punjab

Respondent(s)

Date of hearing: 26.02.2019

CORAM:**HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER****Application is registered based on a complaint received by post****ORDER**

The application raises the question of serious health hazards caused by storage of carbon ashes and its loading and unloading in an open plot in the Mansa road adjacent to the Central University, Bhatinda, by M/s Carbon Chemical Industries.

It is further alleged that transport of carbon ashes is being done without following the due procedure. As a consequence of this the students and staff of the university have been made to suffer from respiratory diseases.

Upon examination of the complaint, we deem it necessary to direct the Punjab State Pollution Control Board to verify on the factual aspects set out in the application and to take appropriate action in accordance with law, if those are found to be correct and

furnish an action taken report within one month from the date of receipt of copy of this order by e-mail at ngt.filing@gmail.com

A copy of this order, along with complaint, be sent to the State PCB by e-mail for compliance.

Needless to say that order of National Green Tribunal is binding as a decree of Court and non-compliance is actionable by way of punitive action including prosecution, in terms of the National Green Tribunal Act, 2010.

List for further consideration on 10.04.2019.

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

February 26, 2019
Original Application No. 72/2019
A

Item No.06

Court No. 1

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

Original Application No.72/2019

Rakesh Singh

Applicant(s)

Versus

State of Punjab

Respondent(s)

Date of hearing: 03.07.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s):

For Respondent (s): Mr. Naginder Benipal, Advocate for PPCB

ORDER

1. The issue for consideration is the remedial action against storing of hazardous waste by M/s. Carbon Chemical Industries at Bhatinda, Punjab in violation of the Hazardous Waste Management Rules, 2016.
2. Vide order dated 26.02.2019, this Tribunal directed Punjab State Pollution Control Board to furnish a factual and action taken report. Accordingly, a report has been furnished vide the e-mail dated 05.04.2019 to the effect that huge quantity of carbon slurry was lying stored at the site and tentative quantity appears to be 3470 tones.
3. The relevant part of report is as follows:

- “6. That the carbon slurry is covered at category no. 18.2 of HWM Rules, 2016. The firms i.e. M/s. Carbo Chem Industries had lifted this carbon slurry from M/s. NFL, Bhatinda through e-tender in the year 2017. M/s. NFL, Bhatinda was bound to sell this carbon slurry only to those industries which are actual users to reprocess such waste and are having valid permission from the concerned State Pollution Control Board and the same cannot be disposed off to the traders for trading purpose. So, the NFL, Bhatinda was asked vide letter no. 6891 dt. 14.11.2018 (Annexure-B) not to sell the remaining carbon slurry of 3 ash ponds to any traders and shall disposed off the same with the prior approval /authorization of Punjab Pollution Control Board only to those recyclers who are having valid permission from the concerned SPCB to reprocess this hazardous waste. M/s. NFL, Bhatinda was also asked simultaneously to explain as to how they have given tender to the firm who has not any permission for reprocessing of this kind of hazardous waste from PPCB.
9. That the said representation of the industry was considered by the Competent Authority of the Board and it was decided as under:
- a) The industry may be asked to make necessary arrangements for the storage of already stored carbon slurry in an environmentally sound manner as per HWM Rules, 2016..
 - b) The seal of the godown may be opened to take action on point no.1 above only after the industry disclose/intimate the approximate quantity of carbon slurry lying in the godown as already asked vide letter no. 4363 dt. 12.11.2018 so that the same may not be sold after opening the seal.
 - c) The industry may be directed not to sell/trading/transport the already stored carbon slurry without the prior

24
authorization/permission of the Board under the Provision of HWM Rules, 2016.

d) The industry may be asked to submit the information/documents already asked vide letter no. 4363 dt. 12.11.2018 and no. 6891 dt. 14.11.2018.

10. That the seal of the industry was opened and the industry was asked vide letter no. 2230-31 dt. 17.01.2019 (Annexure-E) to comply with the following decisions as well as to apply for authorization under HWM Rules, 2016:

a) The industry will make necessary arrangements for the storage of already stored carbon slurry in an environmentally sound manner as per HWM Rules, 2016.

b) The industry shall not sell/trade /transport the already stored carbon slurry without the prior authorization/ permission of the Board under the provisions of HWM Rules, 2016..

c) The industry will submit the information /documents already asked vide letter no. 4363 dt. 12.11.2018 and no. 6891 dt. 14.11.2018.”

4. Thus, the report clearly shows violation of Hazardous Waste Management Rules, 2016.

5. In view of the above, we constitute of a Joint Committee comprising the representative of the CPCB and the State PCB to assess the compensation to be recovered from the industry in question for violation of the Hazardous Waste Management Rules, 2016. The nodal agency for compliance and coordination will be the State Pollution Control Board. The Committee may give its report within one month by e-mail at judicial-ngt@gov.in. Pending furnishing of such report, in view of facts emerging from the report

given after due notice to the concerned unit, the Punjab State PCB may require the industry to deposit interim compensation of Rs. 10 lakhs with the CPCB and also take steps to have the waste in question disposed of in accordance with the Hazardous Waste Management Rules, 2016, at the cost of the industry in question.

6. A copy of this order be sent to the CPCB and the State PCB by email.

List for further consideration on 13th September, 2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 03, 2019
Original Application No.72/2019
AK

Joint inspection Report in compliance to Hon'ble NGT order dated 03.07.2019 in the matter of OA No. 72/2019 - Rakesh Singh Vs. State of Punjab

I. **BACKGROUND: -**

A complaint was received through Hon'ble National Green Tribunal, Principal Bench, New Delhi vide its order dated 26.02.2019 regarding illegal/unauthorised storage of carbon slurry by M/s Carbo Chem Industries, Near Railway Under Bridge, Mansa Road, Bathinda wherein it was directed to Punjab PCB to verify the factual aspects raised in the application and to take appropriate action in accordance with laws and furnish an action taken report within one month from date of receipt of copy of said order by e-mail at ngt.filing@gmail.com. In compliance to aforesaid order dated 26.02.2019 passed by Hon'ble NGT, Punjab PCB filed the action taken report in the Hon'ble NGT on 05.04.2019 through e-mail at ngt.filing@gmail.com.

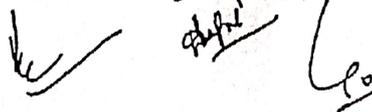
Subsequently, the Hon'ble Tribunal passed an order dated 03.07.2019 in the above mentioned case against M/s Carbo Chem Industries, Near Railway Under Bridge, Mansa Road, Bathinda for violation of the provisions of Hazardous & Other Wastes (Management and Transboundary Movement) Rules, 2016, which are reproduced as under: -

"In view of the above, we constitute of a Joint Committee comprising the representative of the CPCB and the State PCB to assess the compensation to be recovered from the industry in question for violation of the Hazardous Waste Management Rules, 2016. The nodal agency for compliance and coordination will be the State Pollution Control Board. The Committee may give its report within one month by e-mail at judicial-ngt@gov.in. Pending furnishing of such report, in view of facts emerging from the report given after due notice to the concerned unit, the Punjab State PCB may require the industry to deposit interim compensation of Rs. 10 lakhs with the CPCB and also take steps to have the waste in question disposed of in accordance with the Hazardous Waste Management Rules, 2016, at the cost of the industry in question."

Copy of the said order dated 03/07/2019 is given at Annexure- A.

In order to comply with the order dated 03.07.2019 of Hon'ble NGT, Joint Committee comprising of the following officials representing Central Pollution Control Board (CPCB) and Punjab Pollution Control to assess the compensation to be recovered from the industry in question for violations of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (herein after referred as HOWM Rules, 2016):

1. Sh. Abhey Singh Soni, Scientist E & Head, Waste Management -II Div., CPCB Delhi
2. Ms. Deepti Kapil, Scientist D, WM-II Division, CPCB
3. Mr. Vijay Gupta, Environmental Engineer, PPCB, Regional Office, Bathinda



Further, in compliance to the order dated 03.07.2019 of Hon'ble HGT, Punjab PCB issued notice vide dated 26/07/2019 to M/s Carbo Chem Industry, Mansa Road, (Annexure-B) to deposit Interim compensation of Rs. 10 lacs with CPCB and also take steps on the waste in question in accordance with the Hazardous Waste Management Rules, 2016 at his own cost.

II. Observations of Joint Committee: -

The Joint Committee visited M/s Carbo Chem Industries, Mansa Road, Bathinda to access the Environmental Compensation to be recovered from the industry in question. Further, the Committee also visited M/s National Fertilizers Ltd. (NFL), Bathinda (from where M/s Carbo Chem Industries lifted the Carbon Slurry) to verify composition of carbon slurry stored at M/s Carbo Chem Industries. Both the industry visited during 21st -22nd, July, 2019, and observations are as below: -

A. M/s Carbo Chem Industries, Mansa Road, Bathinda

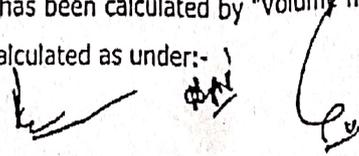
- i. The industry was not in operation during the visit.
- ii. The industry does not possess Consent under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 and Authorization under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.
- iii. M/s Carbo Chem Industries had taken a land measuring 19 Kanals 17 Marlas along with boundary wall comprising khasra no. 1060/2 min (7-18), 1060/2 min (9-14), 1061/3 (2-5) situated at Mansa Road, Jassi Pau Wali, Bathinda on rent from Sh. Rashpal Singh S/o Sh. Dalip Singh R/o H.No. 22345, Shant Nagar, Bathinda.
- iv. The industry involved in pre-processing of carbon slurry (generated from fertilizer industry) and selling of processed carbon slurry to traders/ various industries for further use in tyre pyrolysis. The process involves transportation of carbon slurry from NFL --->Sun drying in open--->Sieving through Siever to segregate carbon and dust/residue. The carbon portion is packed in bags for sale to traders/various industries for further use in tyre pyrolysis and dust/residue is also sold in the market for further use.
- v. M/s NFL, Bathinda has awarded a contract through e-auction vide Ref. no. NFB:ST/D/16-17/carbon slurry/3759 dated 06.03.2017 (Annexure-C) for lifting of 13500 MT of carbon slurry "as it where is basis" from pond no. 4 situated at M/s National Fertilizer Ltd., Bathinda. NFL, Bathinda.

However, M/s Carbon Chem Industries, Bathinda, lifted only 9308 MT of carbon slurry from M/s NFL, Bathinda. The date-wise details on quantity of carbon slurry lifted given at Annexure-D. Out of which, 5838.90 Ton processed carbon slurry has been sold to different parties in India between 09.03.2017 to 12.01.2018, the detail of which is reproduced as under: -

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Sr. No	Name of party to whom Hazardous Waste sold	Quantity sold in MT
1	Cynosure Designs, Delhi	
2	Kundan Chemicals, Panipat	1399.080
3	Yugas India Traders and Contractors Pvt. Ltd., Delhi	10.280
4	Carbon India, Lonl	64.460
5	Super Trading Corporation, Bathinda	344.705
6	Traderwell Associates, Bathinda	3064.395
7	Indian Chemicals, Bathinda	396.140
8	Palta Fertilizers & Chemicals, Jalandhar	141.445
9	Prince Carbon & Charcoal Industries, Najibabad	47.695
10	Krown Industries, Gurgaon	233.570
11	Diamond Enterprises, Delhi	7.980
12	Jagdamba Enterprises, Delhi	11.500
13	Neha Ent., Delhi	23.520
14	Shakti Carbon, Delhi	7.700
15	DK Enterprises, Bathinda	63.900
	Total	22.530
		5838.900

- vi. During visit, it was observed that the processed and un-processed carbon slurry was packed in bags (in heaps) and stored in open area on temporary platform made of bricks and these heaps were covered with HDPE sheets/Tarpaulin.
- vii. There was no labeling on bags stored with Carbon Slurry as per the Rule 17(1) of the HOWM Rules, whereas, the Industry is required to label the bags with requisite details as prescribed in Form B of the HOWM Rules, 2016.
- viii. There was no sign of any leakage in the premises of the factory due to storage of the carbon slurry, however the soil sample at two different point in the premises of the industry have also been collected to confirm as to whether there was any leachate in the past due to storage of this carbon slurry. The analysis results tabulated at Table -C & D, reveals that there is no damage to the soil due to the storage of carbon slurry by the industry in question.
- ix. The Industry informed that the NFL tender/contract does not mentioned any condition about lifting of the carbon slurry by an authorised occupier/actual user only.
- x. The Industry has applied for authorization under HOWM Rules, 2016 for collection and storage of hazardous waste on 17.01.2019 which is under consideration of Punjab PCB.
- xi. The approximate quantity of carbon slurry stored by the Industry measured by volume mentioned as bags (carbon slurry) stacked in heaps, the quantity of waste has been calculated by "Volume method" as 3464 Ton which has been calculated as under:-



Volumes of heaps = 1,76,180 cft
 Volumes of 6 bags = 8.90 cft
 Weight of 6 bags = 175 kg i.e. 8.90 cft volume = 175 kg
 So the weight of 1,76,180 cft volume = $175 \times 176180 / 8.90$
 = 3464213 kg i.e. 3464 T

- xii. The Industry has not provided display board on relevant information about hazardous waste outside the factory gate (as directed by the Hon'ble Supreme Court vide orders dated 14/10/2003 in the matter of WP NO. 657/1995; Research Foundation for Science Technology and National Resource Policy Versus Union of India & Anr).
- xiii. The industry has not provided any Air Pollution Control System PCD to mechanical sewer. The mechanical sewer covered with plastic sheet was found during the inspection.
- xiv. The Committee observed violations of following provisions of the HOWM Rules, 2016:-
- i. The industry is not managing hazardous waste in safe and environmentally sound manner as per rule 4 (2) of HOWM Rules, 2016.
 - ii. The industry is not sending hazardous waste to an authorized actual user as per rule 4 (3) of HOWM Rules, 2016.
 - iii. The industry has not obtained authorization from concerned SPCB for collection, storage, transportation and disposal of hazardous waste as per rule 6 (1) of HOWM Rules, 2016.
 - iv. The industry has stored the hazardous waste for more than 90 days which is in violation of rule 8 of HOWM Rules, 2016
 - v. The industry has not labelled the hazardous waste container as per Form-8 which is the violation of rule 18 (2) of HOWM Rules, 2016.
 - vi. The industry has not given prior intimation to the concerned SPCB (s) before handing over the waste to the transporter to the states of transit for utilisation of hazardous waste as per rule 18 (5) of HOWM Rules, 2016.
 - vii. The industry has not sent the copy of manifest to Punjab PCB as per Rule 19 of HOWM Rules, 2016.
 - viii. The industry is not maintaining daily records on hazardous waste managed by him in Form 3 as per Rule 20(1) of the HOWM Rules, 2016.;
 - ix. The industry is not submitting the annual returns to the PPCB in form-4 as per Rule 20(2) of the HOWM Rules, 2016.

As per the Rule 23 (2) of the HOWM Rules, 2016, the occupier and operator of the disposal facility, as the case may be, is liable to pay financial penalties for any violations of the provisions under these Rules. In this regard, CPCB has prepared "Guidelines on Implementing Liability for Environmental Damages due to handling & disposal of hazardous Wastes" for implementing the aforesaid provisions of Rule 23. In the said guidelines, it stipulates that financial penalty to be levied by the concerned SPCB/PCC for any violation may be limited to maximum of one lakh rupees per provision violated. However, non-compliance may attract violation of one or several provisions of the said Rules and thus the total financial penalty amount may be arrived by adding up number of provisions violated.

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30

Apart from above, CPCB has also prepared document on "Determination of Environmental Compensation to be recovered from the violations of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016". The said document also been submitted before the Hon'ble Tribunal in compliance to the orders dated 12/04/2019 in the matter of O. A No. 804/2017.

As per the said document, for the purpose of imposing financial penalty and environmental compensation, to be recovered for various violations of HOWM Rules, 2016 have been classified into the following two categories -

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

Category B: - Violation causing environmental damage including procedural violations of HOWM Rules, 2016

Based on the Category B of the above guidelines/document, the financial penalty for procedural violations for each provisions of the HOWM Rules listed at (xvi) above, comes out to be **Rs. 9,00,000/-** (i.e 9 x Rs. 1,00,000)

Further, the Environmental Compensation to be recovered for the violations causing environmental damage including procedural violations of HOWM Rules, 2016, is calculated as Rs. 6, 21,000/- based on the following calculations

$$EC \text{ (In Rupees)} = T \times S \times C \times ECF \times Y$$

Where, T = Type of facility factor = 1.5 (taken from Table 2 of said document)

S = Scale of operation factor of industry = 0.5 (taken from Table 3 of said document)

C = Category of facility factor = 0.2 (taken from table 5 of said document and as informed by Punjab PCB, the industry may fall under orange category)

ECF = Environmental Compensation factor = 45,00,000/-

Y = No. of years of operation of facility = 12 months

Y Factor considered as 11/12

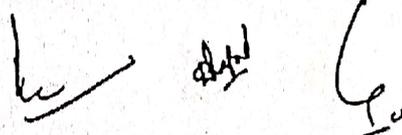
$$= 0.92$$

Therefore, EC = $1.5 \times 0.5 \times 0.2 \times 45,00,000 \times 0.92$

$$= \text{Rs. 6, 21,000/-}$$

B. M/s National Fertilizer Ltd, Sivian Road, Bathinda

- i. The Industry is engaged in the manufacturing of Urea @ 1550 TPD as per the consent to operate granted to it under the Water Act, 1974 & Air Act, 1981.
- ii. The Industry has been granted consent to operate under the Water Act, 1974 & Air Act, 1981 for the production of Urea @ 1550 TPD vide dated 05/04/2018 and 03/05/2018, respectively, which are valid up to 31.03.2020 with one of the special condition that the industry will dispose of the carbon slurry (Hazardous Waste of category 18.2 of Schedule-I of



31

HOWM, Rules, 2016) as per the provisions of HOWM Rules, 2016. Copy of the CTO Issued by Punjab PCB is given at Annexure- E.

- iii. The Industry has also been granted authorization vide dated 05.09.2016 (Annexure -F) for collection, storage, disposal of hazardous waste of category 5.1 @ 25 MT, 18.1 @ 20 MT and 4.1 @ 10 MT under HOWM Rules, 2016 which is valid up to 31.03.2021.
- iv. The industry has informed that they stopped generating carbon slurry in the year 2012 due to change in the feed stock from crude oil to natural gas. At present, the various processes involved are as under:-
Natural Gas → Steam Reforming → Ammonia formation → Urea
- v. The industry has 04 ponds for storage of carbon slurry. Out of which, partial quantity of carbon slurry at pond no. 4 has been sold to M/s Carbo Chem Industries, Bathinda. The ground water samples, carbon slurry as well as soil samples were also collected by the team and the results are tabulated at Table A, B, C, D and E.
- vi. The industry has provided 04 piezo wells for monitoring of ground water, however, ground water found only in 02 piezo wells.

III. Sampling and Analysis

Joint inspecting team collected sample of carbon slurry, soil samples and ground water during the said visit. The details of sampling are as given below:

A. M/s Carbo Chem Industries, Bathinda

- Samples of Carbon slurry (processed and unprocessed)
- Soil samples at the depth of 2-3 fts.

B. M/s NFL, Bathinda

- Samples of Carbon slurry from ponds at various depth.
- Soil samples at the depth -13 to 14 fts.
- Ground water samples-02 piezo wells and hand-pump

Analysis Report of Samples Collected from M/s NFL, Bathinda and M/s Carbo Chem, Bhatinda

Table A: Analysis Results of Ground Water (mg/l) in and around M/s NFL, Bathinda

S. No.	Sample Detail	Arsenic (As)	Cadmium (Cd)	Copper (Cu)	Iron (Fe)	Nickel (Ni)	Lead (Pb)	Zinc (Zn)
1.	Piezo well -Down Stream	BDL	BDL	0.07	7.09	0.02	0.49	0.24
2.	Piezo well -Up Stream	BDL	BDL	0.07	8.59	0.02	0.51	0.26
3.	Down Stream- Hand pump	BDL	BDL	BDL	0.28	BDL	BDL	0.02
4.	Down Stream - Hand pump	0.01	BDL	0.05	0.92	BDL	BDL	0.05
5.	Up Stream- Hand pump	BDL	BDL	BDL	0.47	BDL	BDL	0.05
6.	Up Stream- Hand pump	BDL	BDL	BDL	0.40	BDL	BDL	0.09
7.	Up Stream- Hand pump	BDL	BDL	BDL	0.36	BDL	BDL	0.20

Note: BIS Drinking water specification(mg/l) for: Fe-0.3; Cu-0.05; Zn-5; Cd-0.003; Pb-0.01; Ni-0.02; As-0.01

32

Table B: Analysis Results (mg/l) of Carbon Slurry (TCLP and STLC Extract)

S. No.	Sample detail	Arsenic* (As)	Cadmium* (Cd)	Lead* (Pb)	Cobalt # (Co)	Copper# (Cu)	Nickel# (Ni)	Zinc # (Zn)
1.	Carbon Slurry at NFL Pond no. 4 (at 11 feet depth)	BDL	BDL	0.02	0.14	BDL	1.66	0.31
2.	Carbon Slurry at NFL Pond no. 4 (at Surface)	BDL	BDL	BDL	0.51	BDL	8.45	0.27
3.	Carbon Slurry at NFL Pond no. 6 (at 03 feet depth)	0.01	BDL	0.01	4.81	BDL	95.18	2.29
4.	Processed Carbon Slurry stored at M/s Carbo carbon Industries	0.02	BDL	0.02	6.46	BDL	111.33	2.69
5.	Un-processed Carbon Slurry stored at M/s Carbo carbon Industries	0.03	BDL	0.02	11.26	BDL	142.30	3.30

Note: *analysis result performed in TCLP extract and # analysis result performed in STLC extract

Concentrations Limits in mg/l as per Schedule-II of the HOWM Rules, 2016: Arsenic-5.0; Cadmium-1.0; Lead-5.0; Cobalt-80.0; Copper-25.0; Nickel-20.0; Zinc-250

Table C: Analysis Results (mg/l) of Soil sample (TCLP and STLC Extract)

S. No.	Sample detail	Arsenic* (As)	Cadmium* (Cd)	Lead* (Pb)	Cobalt # (Co)	Copper# (Cu)	Nickel# (Ni)	Zinc # (Zn)
1.	Soil sample near processed carbon slurry at M/s Carbo Chem Industries	BDL	BDL	BDL	0.02	BDL	0.02	0.04
2.	Soil sample near unprocessed carbon slurry at M/s Carbo Chem	BDL	BDL	BDL	0.04	BDL	0.04	0.09
3.	Soil sample at NFL Pond no. 4	BDL	BDL	0.01	BDL	BDL	0.05	BDL

Note: *analysis result performed in TCLP extract and # analysis result performed in STLC extract

Concentrations Limits in mg/l as per Schedule-II of the HOWM Rules, 2016: Arsenic-5.0; Cadmium-1.0; Lead-5.0; Cobalt-80.0; Copper-25.0; Nickel-20.0; Zinc-250

Table D: Analysis Results of Carbon Slurry (Water Extract)

S. No.	Sample Detail	Molsture (%)	Cond. (µmho/cm)	Organic Carbon (%)	Ammonia (mg/l)	Cyanide (mg/l)	Fluoride (mg/l)	Nitrate (mg/l)
1	Carbon Slurry at NFL Pond no. 4 (at 11 feet depth)	60.64	2060	9.66	0.17	BDL	0.06	0.30
2	Carbon Slurry at NFL Pond	64.81	1530	21.17	0.06	BDL	0.01	0.29

33

	no. 4 (at Surface)							
3	Carbon Slurry at NFL Pond no. 6 (at the depth of 03 feet)	03.33	15340	58.62	0.43	BDL	0.004	0.05
4	Processed Carbon Slurry stored at M/s Carbo Chem Industries	50.40	11160	51.72	0.08	BDL	0.01	0.32
5	Un-processed Carbon Slurry stored at M/s Carbo Chem Industries	32.34	8660	57.91	0.10	BDL	0.008	0.32

Note: Concentrations Limits for (as per Schedule-II of the HOWM Rules, 2016): Ammonia-50; Cyanide-20; Fluoride-180; Nitrate-1000

Table E: Analysis Results of Soil sample (Water Extract)

S. No.	Sample Detail	Molsture (%)	Cond. (μ mh o/cm)	Organic Carbon (%)	Ammonia (mg/l)	Cyanide (mg/l)	Fluoride (mg/l)	Nitrate (mg/l)
1.	Soil sample near processed carbon Slurry at Carbo Chem	10.39	799	0.20	0.10	BDL	0.05	0.21
2.	Soil sample near unprocessed carbon Slurry at Carbo Chem	14.62	142	0.14	0.04	BDL	0.01	0.18
3.	Soil sample at NFL Pond no. 4	10.78	453	0.21	0.15	BDL	0.06	0.19

Note: Concentrations Limits for (as per Schedule-II of the HOWM Rules, 2016): Ammonia-50; Cyanide-20; Fluoride-180; Nitrate-1000

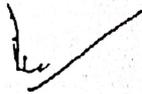
IV. Findings: -

- As per the Hon'ble Tribunal order dated 03/07/2019, the industry i.e. M/s Carbo Chem Industries, Mansa Road, Bathinda has not deposited the interim compensation of Rs. 10 Lakhs with CPCB.
- The composition of carbon slurry stored at M/s Carbo Chem Industries is similar to the carbon slurry lying in the carbon slurry ponds of M/s NFL, Bathinda.
- The ground water analysis results of piezometers wells located at M/s NFL reveals exceedance w.r.t Copper, Iron and Lead. Whereas, the concentration limits of Iron exceed in ground water samples collected near the industry and Copper and Nickel are equivalent to the acceptable limits specified by BIS Standards: IS 10500: 2012 for drinking water.

Recommendations: -

- 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,

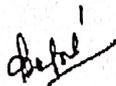
- 1974, as applicable and Authorization under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.
- (b) The industry shall apply under Rule 9 of HOWM Rules for pre-processing of carbon slurry as per the provisions of HOWM Rules, 2016.
- (c) The industry shall provide display board out the factory premises in accordance with 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.
- (d) The industry shall provide covered storage shed for processed and un-processed carbon slurry within 03 months. Such storage and processing area shall have impervious lined floor.
- (e) 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.
- (f) 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 & 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.



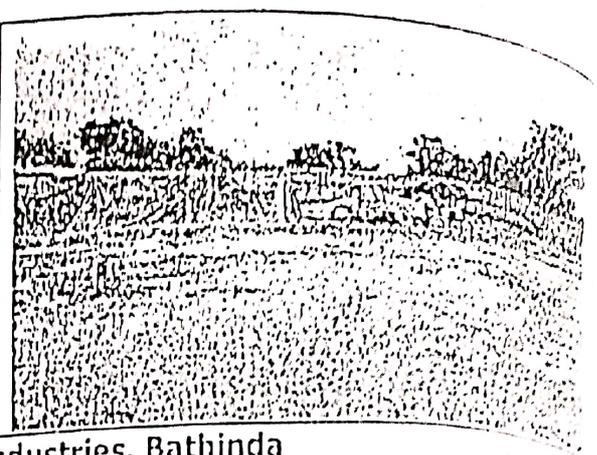
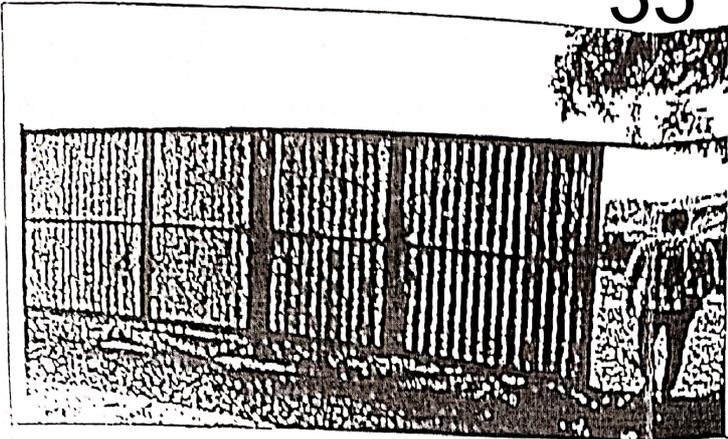
Sh. Abhey Singh Soni,
Scientist E, CPCB



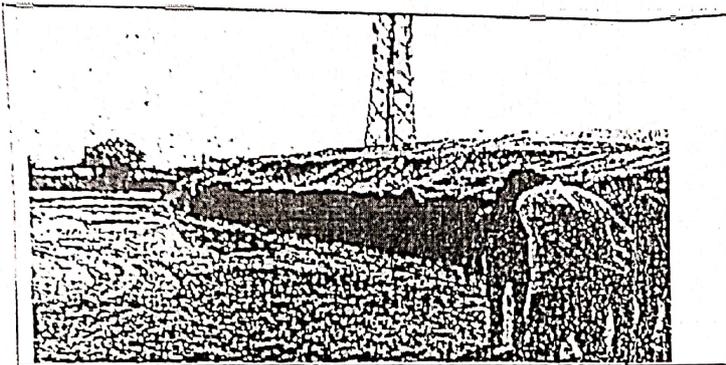
Mr. Vijay Gupta,
Environmental Engineer,
Punjab PCB



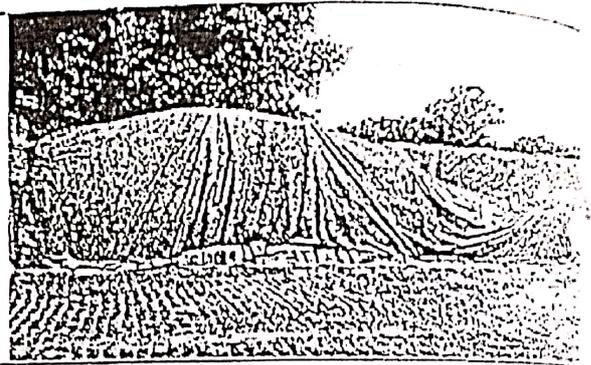
Ms. Deepti Kapil,
Scientist D, CPCB



M/s Carbo Chem Industries, Bathinda



Processed carbon slurry stored at M/s Carbo Chem Industries, Bathinda



Un-processed carbon slurry stored at M Carbo Chem Industries, Bathinda

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

Original Application No. 72/2019

(With Report dated 04.09.2019)

Rakesh Singh

Applicant(s)

Versus

State of Punjab

Respondent(s)

Date of hearing: 13.09.2019

CORAM:**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant:

None

For Respondent(s):

Mr. Naginder Benipal, Advocate for State of
punjab**ORDER**

1. The issue for consideration is the remedial action against storing of hazardous waste by M/s. Carbon Chemical Industries at Bhatinda, Punjab in violation of the Hazardous Waste Management Rules, 2016.
2. Vide order dated 26.02.2019, this Tribunal directed Punjab State Pollution Control Board to furnish a factual and action taken report. A report was furnished vide e-mail dated 05.04.2019 to the effect that huge quantity of carbon slurry was lying stored at the site and tentative quantity appeared to be 3470 tones.
3. The report was duly considered vide order dated 03.07.2019. In view of violation of Hazardous Waste Management Rules, the Tribunal directed constitution of a Joint Committee to assess and recover

37
compensation and furnish a compliance report. A sum of Rs. 10 Lakhs was directed to be collected as an interim compensation.

4. The Joint Inspection Report has been filed on 04.09.2019 to the effect that compensation has been duly assessed. Let the same be recovered in accordance to law and a compliance report filed within one month by email at judicial-ngt@gov.in.

List the compliance report for consideration on 26.11.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

September 13, 2019
Original Application No. 72/2019
AK

NATIONAL GREEN TRIBUNAL, NEW DELHI

Item No.03

Court No. 1

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

Original Application. No. 72/2019

(With report dated 20.11.2019)

Rakesh Singh

Applicant(s)

Versus

State of Punjab

Respondent(s)

Date of hearing: 17.01.2020

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER

ORDER

The issue for consideration is the remedial action against storing of hazardous waste by M/s. Carbon Chemical Industries at Bhatinda, Punjab in violation of the Hazardous Waste Management Rules, 2016.

The matter was last considered on 13.09.2019 in the light of joint inspection report dated 04.09.2019 to the effect that apart from other action, compensation was assessed but the same was to be recovered. Further report was sought. The report filed on 20.11.2019 is that further remedial action has been taken.

In view of above, no further order is necessary.

The application is disposed of.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

January 17, 2020
Original Application. No. 72/2019
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