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

OA No.620 of 2022

IN THE MATTER OF:

Kaushal Kishore Vishwakarma

Applicant

Versus

State of Punjab & Ors.

Respondent

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Date: 20/02/2024


**Regional Officer, HSPCB
Panipat Region**

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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Original Application No.620/2022

IN THE MATTER OF:

Kaushal Kishore Vishwakarma

Applicant

Versus

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

1. That the said matter was listed before the Hon'ble NGT on 08.01.2024. The operative part of the order dated 08.01.2024 passed by this Hon'ble Tribunal is as under:-

"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 the Punjab Pollution Control Board and Haryana State Pollution Control Board for the imposition of environmental compensation and also prosecution of the defaulting officer/officials and Punjab State Pollution Control Board and Haryana State Pollution Control Board are directed to initiate appropriate proceedings for the 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 preferable in the form of searchable PDF/PCR supported PDF and not in the form of Image PDF."

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.

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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 large 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 Rs36.78 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.
6. That the report is submitted accordingly for kind consideration. It is undertaken to comply with the directions passed by the Hon'ble Tribunal.


Kuldeep Singh,
Asstt. Environmental Engineer,
HSPCB, Panipat


Bhupinder Singh,
Regional Officer,
HSPCB, Panipat

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Annexure-R-1



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

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

No. HSPCB/PR/2024/ 2119

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, Bhetinda 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 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 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

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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

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फर्टिलाइजर्स लिमिटेड

(भारत सरकार का उपक्रम)

नेशनल फर्टिलाइजर्स लिमिटेड
पानिपत इकाई
PANIPAT UNIT

पानिपत इकाई: गोहाणा रोड, पानीपत-132105(हरियाणा)

दूरभाष: 0180-2652481

फैक्स: 0180-2652515



NATIONAL FERTILIZERS LIMITED

(A Government of India Undertaking)

Panipat Unit: Gohana Road, Panipat-132105 (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:

- Part A – Area = 33150.00 SqM (Quantity Stored 56285 MT)
- Part B—Area = 9000 Sqm (Quantity Stored 66315 MT)
- Total = 42150.00 SqM.(Total 1,22,600 MT as evaluated by M/SPDIL)
- 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.

कांस्टीट्यूट कार्यालय: ए-11, सेक्टर 24, नोडा, गाँवनास (एनपी)-201 201, ☎ 0120-2412204, 2412445/73092201 मोबा. फोन: 2412297
CORPORATE OFFICE : A-11, SECTOR 24, NOIDA, GAUTAM BUDDH NAGAR (UP)-201 201, ☎ 0120-2412204, 2412445 & 3292201 TO DR. FAX: 2412297
राज्य, राज्यपाल कार्यालय, कोटा-81, 7, इन्टीर्युक्शन एरिया, जेपी रोड, नई दिल्ली-110 003. ☎ 011-24360044 फैक्स 24361553.

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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

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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 Carbon 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: n-hsda@nfl.co.in

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HAZARDOUS WASTE		Quantity
1. SPENT CATALYST (RECYCLABLE)	70	11.11
2. SPENT CATALYST (LAND FILLING)	7	11.11
3. SPENT CARBON	7	21.21
4. SPENT RESIN	10	11.11
5. DE-CONTAMINATED CONTAINERS	7	11.11
6. USED OIL	7	21.21
7. E-WASTE	6	11.11
8. S. BATTERY	8	21.21

Mishra

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नेशनल फर्टिलाइजर्स लिमिटेड

(मान सम्मान का सम्बन्ध)

गोहाना रोड, पानीपत, हरियाणा - 132 105

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

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

फैक्स: 0180-2652315

ई-मेल: nfl@nfl.co.in

GST No: 06AAACN0189N1Z8

website: www.nationalfertilizers.com

National Fertilizers Limited

(A Government of India Undertaking)

Gohana Road, Panipat, Haryana - 132 105

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

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

FAX : 0180-2652315

E-mail: nfl@nfl.co.in

CIN: L74899DL1974GD0007417

website: www.nationalfertilizers.com

Ref. No.: NFP/S I/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/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 (माला)

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Road for Entry of trucks

Annexure-2

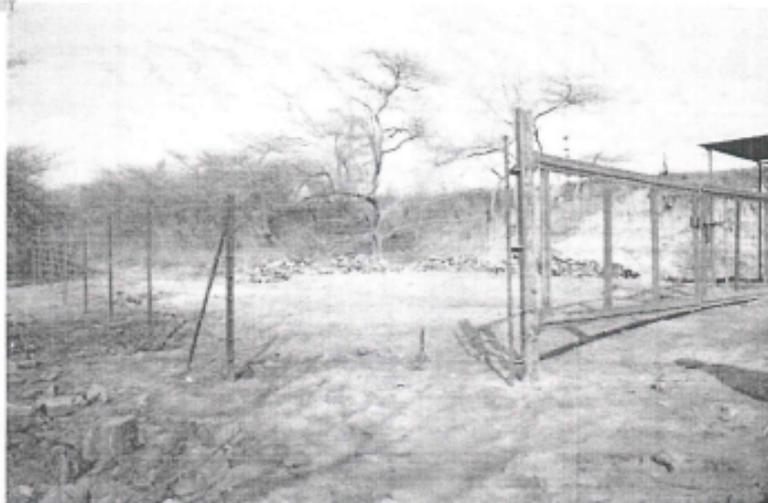


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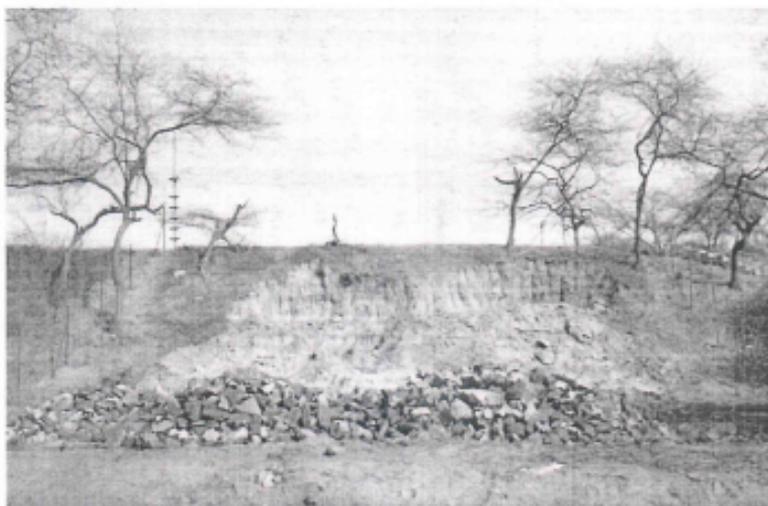
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Entry gate with Fencing



Truck loading area

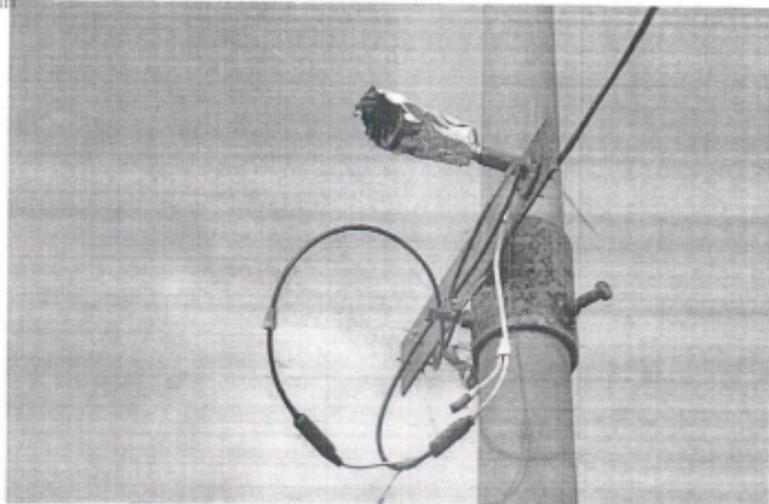


M. S. S.

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CCTV Camera and monitoring room



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एन एफ एल
NFL
पानीपत इकाई
PANIPAT UNIT



Handwritten signature