

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
Principal Bench, New Delhi

in

Original Application No. 104/2018

In the matter of:-

Shivpal Bhagat & Ors

Versus

Applicant(s)

Union of India & Ors

Respondent(s)

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(Nazimuddin)
Scientist F

Central Pollution Control Board
Parivesh Bhawan
East Arjun Nagar, Delhi

Place- Delhi

Date- 03.08.2022

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

Original Application No. 104/2018

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Status Report as on 30.06.2022

Hon'ble NGT in OA No.-104/2018 Shivpal Bhagat vs. Union of India has accepted the recommendation made by oversight committee and has set few directions in its order dated 15.02.2022 to be looked after by the Joint Committee and submit the status of compliance as on 30.06.2022. In compliance of the direction of Hon'ble Tribunal joint committee has conducted 03 meetings followed by field visits in the month of April, May and July 2022. The minutes of the meeting are placed as EXIBIT-01, EXIBIT-02 and EXIBIT-03. As per observations during meeting and field visit the progress status as on 30th June 2022 is as under-

Direction-

(a) The State of Chhattisgarh and concerned Industrial units may deposit assessed compensation as interim compensation within two months, to be utilized for restoration of the environment, as per plan to be got prepared and executed by the Committee.

Status-

Chhattisgarh Environment Conservation Board has issued Notices to State PWD, Health Department and concerned units on date 03.03.2022 to deposit the assessed compensation.

The status of compensation deposit/ appeal filed is as under -

Sl. No	Name of industry/department	EC/Penalty/Fine amount in Rs	Action Taken
01	Principal Secretary, Public Works Department, Chhattisgarh Government	1,00,00,000/-	Not Deposited
02	Principal Secretary, State Health Department, Chhattisgarh Government	1,00,00,000/-	Not Deposited
03	M/s TRN Energy Private Limited, Nawapara, Raigarh	1,82,40,600/-	Appealed in Hon'ble Supreme Court
04	M/s Mahavir Energy and Coal Benefication limited	1,42,90,000/-	Not Deposited
05	M/s Hindalco Industries Limited Coal Mine	2,09,40,000/-	Appealed in Hon'ble Supreme Court
06	M/s Ambuja Cement Limited Coal Mine (GP IV/8)	75,90,000/-	Deposited
07	M/s Jindal Power Limited Tamnar	48,30,000/-	Deposited
08	M/s. Jindal Steel & Power Limited, Dongramau, Tamnar	11,70,000/-	Deposited
09	M/s Chhattisgarh State Power Generation Company Limited	75,90,000/-	Appealed in Hon'ble NGT

Direction-

(b) Remedial measures be taken by the CPCB, State PCB, State of Chhattisgarh and the concerned Industrial units and the authorities in the light of report of the Committee and observations of this Tribunal.

Status-

The joint committee has made field visits on 25th May and 12-13th July 2022 to assess the status of compliance of the report submitted by Oversight Committee. The status of compliance is as under-

1. All the coal mines of Tamnar and Gharghoda area has installed CCTV system to monitor the loading and covering status of trucks transporting the coal from Coal Mines.
2. **CSPGCL Coal Mines (Gare Pelma Sector-III)** - In compliance of Oversight Committee direction mine authorities have maintained minimum distance of 50 meters on both side the road and constructed physical barrier of steel sheets mounted on iron structure. The mine authorities have also provided garland drain with settling tanks around the OB dump site. In compliance of EC and consent conditions mine authorities have installed 02 CAAQMS in mine area which was found operational and process of its connectivity with CPCB and CECB server was in progress. It was informed by the committee to mine authorities for submission of clarification for factor of safety and suitable geometry of inpit and external dump design by scientific agency to DGMS office, Raigarh.
3. **M/s Ambuja Cement Coal Mines (Gare Pelma Sector IV/8)-** In compliance of Oversight Committee direction mine authorities have maintained minimum distance of 50 meters on both side the road and constructed physical barrier of steel sheets and cloth sheet mounted on iron structure which seems to be not more effective. The height of physical barrier was also found less than 3 meter and not of enough strength. In compliance of EC and consent conditions mine authorities have installed 01 CAAQMS in mine area which was found operational and process of its connectivity with CPCB and CECB server was in progress. It was informed by the committee to mine authorities for obtaining study report about factor of safety of OB dump with suitable geometry of inpit and external dump design from any Institute of repute and submit to DGMS at earliest.

Mine authorities has deposited the amount of EC ordered by Hon'ble NGT.

4. **M/s Hindalco Industries Limited-Coal Mines (Gare Pelma IV/4 &5)-** In compliance of EC and consent conditions mine authorities have installed 01 CAAQMS in mine area which was found operational and process of its connectivity with CPCB and CECB server was in progress. It was informed by the committee to mine authorities for obtaining study report about factor of safety of OB dump with suitable geometry of inpit and external dump design from any Institute of repute and submit to DGMS at earliest. Mine authorities has reported about continues supply of drinking water to Kondkhel Village.
5. Chhattisgarh Environment Conservation Board has also provided 04 CAAQMS in villages of Gharghoda and Tamnar i.e. Kunjemida (01), Millupara (01), Chhal Mine Township (01) and Punjipatra (01). JSPL Mine (GP IV/01) has installed 01 CAAQMS, JSPL-CPP, 03 CAAQMS and Jindal Power Plant 04 CAAQMS. **As on date total 16 CAAQMS are operational in Tamnar and Gharghoda area but SECL has not installed any CAAQMS in their operational mines in this area irrespective of the condition in EC and Consent.**
6. M/s IRCON has developed 05 Railway coal siding in the area, out of that 04 been operational and 01 to be operational shortly. The operational coal sidings are located at Korrichapar, Gharghoda, Dharmajaygarh and Bhallumuda. Development of these coal sidings may be useful in reducing by road coal transportation.
7. The representative of state PWD has submitted the details of work being undertaken in compliance Hon'ble NGT Direction. The committee has also visited the construction site but no significant progress was observed.
 - Construction of bitumen road from Jampali to Gharghoda - total length 19 km - work order issued on 02.08.2021- target

completion date - November-2022. **(Action by - State PWD- but no progress was observed till 30.06.2022)**

- Construction of bitumen road from Raigarh to Dharmanjaygarh- total length - 56 km - work order issued on 10-01-2022, target completion time - 36 months i.e 10.01.2025 **(Action by - State PWD- but no progress was observed till 30.06.2022)**
- Construction of CC road - Panjipatra - Tamnar- Millupara-total length-23 km, under tendering process. **(Action By- State PWD but no progress was observed till 30.06.2022)**

8. Chhattisgarh Environment Conservation Board has placed order for Carrying Capacity study to Dr. Praveen Chandra Shukla, Assistant Professor, Department of Mechanical Engineering, Indian Institute of Technology Bhilai, CEC Campus, Sejbahar, District, Raipur. CECB is in process of compiling the monitoring data as required by IIT, Bhilai.
9. Collector Raigarh has issued order on 24-03-2022 to M/s OP Jindal Fortis Hospital for providing free health checkup and treatment facility to villagers of Gharghoda, Dehrideeh, Tenda Nawapara, Millupara, Khamaria, Kunjmura, Dongamahua, Gare, Dolesara, Saritola, South Regaon, Dhaurabhata, Sarasmal, Rodopali villagers and other nearby villagers. The committee has visited O.P. Jindal Fortis Hospital and found the hospital operational with only 03 Doctors and limited paramedical staff.

CMHO Raigarh have organized number of health camps in the Tamnar & Gharghoda area for checkup and treatment of villagers from Tenda Nawapara, Dehrideeh, Millupara, Khamria, Dongmahua, Regaon, Sarasmal, Dhaurabhatha, Kunjemura, Saraitola Rodopali, Gare, and Dolesara Villages. Details of health camp organized is under-

Sl. No	Month of Health Camp	Number of residents benefitted
01	November 2021	594
02	December 2021	344
03	January 2022	698
04	February 2022	840

In the above said context CMHO, Raigarh vide letter dated 12.07.2022 has informed that the reports obtained from health camps indicate about no impact on health of villagers due to operation of mines and industries. Copy of the report is placed at **Annxure-01.**

Direction-

(c) The State PCB may put the concerned industrial units to notice of these proceedings other than those who have put in appearance in the light of observations in Para 16 above, to enable the State and such units to file their response, if any.

Chhattisgarh Environment Conservation Board has issued letters on date 03.03.2022 to all concerned units for filing their response if any within one month.

As per information provided CECB, PS PWD and PS Health Department of Chhattisgarh Government has not filed any response on direction of Hon'ble NGT, however M/s TRN Energy and M/s HINDALCO Coal Mine and M/s Mahaveer Energy and coal beneficiation have made appeal in Hon'ble Supreme Court. Chhattisgarh State Power Generation Company Limited has filed review appeal before Hon'ble NGT.

Direction-

(d) In the light of order of this Tribunal dated 18.01.2022 in OA No. 164/2018, Ashwani Kumar Dubey vs. Union of India & Ors. quoted above in Para 13,

compensation may be redetermined, subject to final orders of the Hon'ble Supreme Court in Appeal, if any, filed by the affected parties.

Status-

Redetermination of compensation may be made after final orders of the Hon'ble Supreme Court in appeal filed by M/s TRN Energy and M/s HINDALCO Coal Mine and M/s Mahaveer Energy and coal beneficiation

Direction-

(e) Having regard to aggravated adverse impact of the fly ash during the summer season, the State PCB may take appropriate remedial safeguards by issuing appropriate directions to the Project Proponents in question on the subject. For suppression of fly ash dust emissions, sprinkling be ensured utilizing treated water and refraining from use of ground water or fresh water in view of already depleted level of groundwater.

Status-

Chhattisgarh Environment Conservation Board, Regional officer, Raigarh has issued notices to project proponent in question to ensure proper operation of sprinklers for suppression of fly ash during summer season. The committee has also directed RO, CECB, Raigarh, for conducting surprise inspections of the site and submit inspection report with photographs.

Direction-

(f) In view of order of this Tribunal in OA No. 164/2018, Ashwani Kumar Dubey vs. Union of India & Ors., quoted earlier, TPPs and other projects have to install requisite devices, take steps for timely utilization of disposal of fly ash, scientific designing of fly ash dykes, address issues relating to public health and restoration of deteriorated environment, providing water supply to affected persons and

higher-level monitoring by the statutory regulators. Fly Ash Management and Utilization Mission constituted by the Tribunal headed by the Secretary, MoEF&CC may also look into the issues with regard to fly ash management and utilization in Raigarh District. There has to be executable time bound plan to remove fly ash in Raigarh District for which a road map be prepared by the joint Committee and may also be overseen by the Mission in its next meeting, in coordination with concerned authorities.

Status-

As per fly ash utilization report (April 2021-March 2022) submitted by Chhattisgarh Environment Conservation Board the overall scenario of ash utilization is as under.

Sl. No	Ash Detail	Quantity in MT	Percent Utilization
01	Ash Generation	1,29,31,334	NA
02	Supply to cement plant	2,79,988	2.0
03	Brick making plant	8,03,206	6.2
04	Land filling	14,45,439	11.17
05	Ash Dyke raising	9,68,943	7.5
06	Agriculture	00	Nil
07	Mine filling	53,28,926	41
08	Road making/other	10,69,821	8.27
09	Total Utilization	98,96,325	76.53
10	Unutilized fly ash	30,35,009	23.47

- Out of 41% utilization of mine filling, 35% only is disposed in coal mine by Jindal Power Limited and Jindal Steel and Power Limited. Rest 6% utilization could not be technically classified.
- In financial year 2021-22 total ash disposed on land is 1445439 MT which is not in consonance with permission issued i.e. for 10,15,000 MT. It indicates illegal /unscientific disposal of 430439 MT ash on land in the name of low lying area in year 2021-2022.
- In financial year 2021-2022 Chhattisgarh Environment Conservation Board, Raigarh has issued permission for disposal of 10,15,000 MT fly ash filling in low lying area/in stowing of abandoned mines/quarries, out of that permission for disposal of fly ash 5,25,000 MT (50 % approximately) has been issued to those industries which are not located in District, Raigarh.
- It was observed during visit that there are so many heaps (height 10-20 Meters) of fly ash created in last 10 years due to indiscriminate disposal of ash without any permission/information to concerned authorities. Most of those are located either with in the premises of industries or on the land in their name. The concerned industries are confident that no permission is required for storing ash on their land.
- Utilization of fly ash in manufacturing of brick is also one of the main option for disposal. General Manager, District Industries Centre, Raigarh has provided list of established fly ash bricks manufacturing industries which is placed at **Annexure-02**. Chhattisgarh Environment Conservation Board has also provided list fly ash bricks manufacturing plant in house established by the industries located in Raigarh which is placed at **Annexure-03**. As per the list provided by DIC and CECB total installed production capacity of fly ash bricks in Raigarh comes to around 113 crores bricks per year. It

indicates that if all fly ash bricks plants of Raigarh operates on full production capacity an approximate quantity of 10-11 lakhs MT of fly ash may be utilized by this sector which is at present only 8 lakhs MT.

In order to prepare executable action plan authentic information about quantities of fly ash generation per year, coal mined per year, disposal in low lying area per year and legacy fly ash disposed on land in last 10 years shall be required to define best mode of disposal to be adopted. In this context list of fly ash brick manufacturing industries with their capacity has been prepared. **State mining department is yet to provide total annual quantity of coal mined in Raigarh.** State Pollution Control Board to provide list of locations where fly ash had been dumped in the form of heap and its quantity. Joint committee has formulated draft action plan and needs data to finalize. The completion of plan may take more time and it is requested to grant 3 months time for submission of action plan.

Direction-

(g) Consistent with the Notification dated 31.12.2021 issued by the MoEF&CC, audit of fly ash generation and management be got conducted within three months in respect of each unit generating fly ash in Raigarh District.

Status-

In compliance with Notifications dated 31.12.2021 issued by MoEF&CC, CECB has issued notice to all industries of Raigarh District for submitting audit report of fly-ash generation and management on or before 15.05.2022.

It was observed during 2nd meeting that industries of Raigarh are not serious on direction only 22 industries has submitted the audit report as on 30.06.2022. The quality of audit reports were not found technically sound and containing hypothetical figures to match 100 percent utilization. It was observed through reports that agreement made with fly ash brick plants is not authentic as it do not contains details of brick plant like industries department registration number , brick manufacturing capacity, quantity of fly ash required and number of industries with whom the brick plant has made agreement.

In case of disposal of fly ash in low lying areas the industries has not submitted details of location where fly ash had been dumped and also not provided copy of permission for disposal of fly ash. It is understood with the process observed that responsibility of fly ash disposal in Raigarh district lies on transporters only. The list of industries submitted the audit report is as under

Sl. No	Name of the industry	Status	Observation
01	M/s Jindal Power, Tamnar, Raigarh	Submitted	Satisfactory
02	M/s Jindal Steel & Power, Dongamahua, Raigarh	Submitted	Satisfactory
03	M/s Singhal Enterprises, Taraimal, Raigarh	Submitted	Not Satisfactory
04	M/s Singhal Energy Pvt. Ltd. Taraimal, Raigarh	Submitted	Not Satisfactory
05	M/s Shri ShyamIspat Pvt. Ltd, Raigarh	Submitted	Not Satisfactory
07	M/s B.S.Sponge Pvt. Ltd. Taraimal, Raigarh	Submitted	Satisfactory
08	M/s Raigarh Ispat& Power Ltd, Delari, Raigarh	Submitted	Not Satisfactory
09	M/s NavDurga Fuel Pvt. Ltd. Saraipali, Raigarh	Submitted	Not Satisfactory
10.	M/s Shri Rupanadham Steel Pvt. Ltd, Saraipali, Raigarh	Submitted	Not Satisfactory
11	M/s Anjani Steel Limited, Ujalpur, Raigarh	Submitted	Not Satisfactory
12.	NTPC Larra Super Thermal Power Station, Chhapora, Raigarh	Submitted	Not Satisfactory

13.	M/s Inds Synergy Limited, Kotmar, Raigarh	Submitted	Not Satisfactory
14.	M/s Raigarh Energy Generation Limited, Bade Bhandar, Raigarh	Submitted	Not satisfactory
15.	M/s JSPL, Patarapali, Raigarh	Submitted	Satisfactory
16.	M/s R. R. Energy, Garumaria, Raigarh	Submitted	Not Satisfactory
17.	M/s Sky Alloys Pvt. Ltd. Tememta, Raigarh	Submitted	Not Satisfactory
18.	M/s Nalwa Steel & Power, Taraimal, Raigarh	Submitted	Not Satisfactory
19.	M/s Maa Kali Alloys, Pali, Raigarh	Submitted	Not Satisfactory
20.	M/s MSP Sponge Iron Ltd. Manupali, Raigarh	Submitted	Not Satisfactory
21.	M/s MSP Steel & Power Ltd. Jamgaon, Raigarh	Submitted	Not Satisfactory
22.	M/s N.R. Ispat& Power pvt. Ltd. Gourmudi Raigarh	Submitted	Not Satisfactory
23.	M/s JSW Ispat Ltd. Naharpali, Raigarh	Not Submitted	
24.	M/s Rukmani Power & Steel Kunkuni, Raigarh	Not Submitted	
25.	M/s Rameshwar Steel & Power Ltd. Bade Gumda, Raigarh	Not Submitted	
26.	M/s Salasar Sponge & Power Gerwani, Raigarh	Not Submitted	
27.	M/s TRN Energy Pvt. Limited Bhengari, Raigarh	Not Submitted	
28.	M/s S K S Power generation Binjkot, Raigarh	Not Submitted	

Note- Not Satisfactory- Submitted audit report indicates disposal of fly ash in low lying area but location of disposal is not mentioned.

Direction-

(h) CPCB may issue necessary guidelines to all PCBs/PCCs on determination of compensation in the light of observations in para 12 above.

Status-

Concerned division of CPCB is in process to formulate the guidelines for the same.

Direction-

(i) Any other victim of Raigarh District adversely affected by the operation of the TPPs with respect to fly ash in Raigarh District to put forward their claim, if any, with the District Magistrate, Raigarh, within two months which may be looked into by the joint Committee.

Status-

Joint Committee has directed Collector Raigarh for taking necessary action in disposal of the claims. In the meeting CECB has informed that about 931 claims have been received in Collector office and the same is being processed for verification and evaluation.

Direction-

(j) The District Environment Plan of Raigarh District may cover all above aspects appropriately so as to be addressed in execution of District Environment Plan in association with stakeholders.

Status-

As per district environmental plan of Raigarh, there are 10 operational coal mine which may use much quantity of fly-ash generated in District-Raigarh. Out of these 10 coal mines only 02 mines are utilizing fly-ash in backfilling process after obtaining EC and permission from DGMS. Ministry of Environment Forest and Climate Changes has issued guideline on 28th August, 2019 regarding exemption of requirement of any change in Environmental clearance of thermal power plants and coal mines along with the guidelines to be followed for such disposal.

In this context grant of permission from DGMS to coal mine seems to be more useful option for improving utilization of fly-ash in Raigarh District. The representative of district administration has ensured to cover all the aspect in District Environment Plan after finalization of time bound action plan by the committee.

Direction

(k) The joint Committee may ensure that there is effective monitoring mechanism to address the issues on continuous basis.

Status-

The joint committee has discussed the issue of effective monitoring mechanism and suggest the following for further action by concerned on continuous basis.

- ❖ Chhattisgarh Environment Conservation Board, Regional Office, Raigarh shall make fly-ash management wing of appropriate members dedicated for field inspection and reporting. The competent authority of CECB shall provide required man power for the same urgently.
- ❖ The fly-ash management cell shall visit all Thermal Power Plants, Coal Mines and Low-lying disposal projects once in fortnight to ensure implementation of SOP in Low-lying area disposal projects, check illegal disposal of fly-ash in Raigarh District, covered transport of fly-ash and utilization of fly-ash in backfilling of coal mines and mixing with OB dump.
- ❖ District administration shall develop portal/mobile app/Whatsapp link to facilitate public for providing information about illegal dumping of fly-ash and submit their grievances about fly-ash management in Raigarh. Strict action within 24 hrs shall be ensured by district administration on complaints received on portal/mobile app/whatsapp with information to complaint about action taken.
- ❖ The Joint Committee will convene monthly meeting at Raigarh and Chhattisgarh Environment Conservation Board will submit monthly progress report for fly-ash management in the meeting.

Recommendations-

1. As per MoEF&CC notification dated 31.12.2021, Chhattisgarh Environment Conservation Board shall constitute a committee for the purpose of resolving disputes between thermal Power plants and user of ash or manufacturer of ash based products and ensure that ash is made available free of cost to fly ash brick manufacturing industries.
2. MD, SECL, Bilaspur may be directed to ensure compliance of CAAQMS

installation in their mines located in Raigarh and also increase coal transportation by rail as Railway Department have made 04 operational coal siding in Raigarh.

3. In order to prepare executable action plan authentic information about quantities of coal mined per year and legacy fly ash disposed on land in last 10 years shall be required to define best mode of disposal to be adopted. Hence Mining department, Raigarh may be directed to provide year wise data of coal mined in Raigarh and Chhattisgarh Environment Conservation Board to provide data of legacy fly ash disposed on land in last 10 years with location and co-ordinates.

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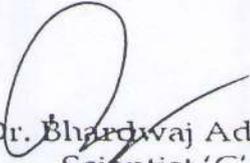
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कार्यालय, मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, रायगढ़ (छ.ग.)

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क्र./N.T.E.P/2022/9387
प्रति,

/ रायगढ़, दिनांक 21/07/22

Nodal Officer, Joint Committee

नेशनल ग्रीन ट्रीब्यूनल, O.A. 104/2018

रायगढ़ (छत्तीसगढ़)

विषय :- Order Passed In Original Application No. 104/2018 (I.A. No. 382/2020, I.Ano 25 / 2021 , I.A No. 97/20201) Hon'ble National Green Tribunal In The Matter Of Shivpal Bhagat & Ors Vs. Union Of India & Ors No. के संबंध में नेशनल ग्रीन ट्रीब्यूनल, नई दिल्ली द्वारा पारित आदेश दिनांक 24.06.2021 पर की गई कार्यवाही के विवरण के संबंध में।

- संदर्भ :- 1. संचालक, स्वास्थ्य सेवायें छत्तीसगढ़ को प्रेषित कार्यालयीन पत्र क्रं/ एनटीईपी/2022 /8243 रायगढ़ दिनांक 20.06.2022।
2. अवर सचिव, छत्तीसगढ़ शासन लोक स्वास्थ्य एवं परिवार कल्याण विभाग मंत्रालय, महानदी भवन नवा रायपुर छ.ग. को प्रेषित कार्यालयीन पत्र क्रं/एनटीईपी/2022/2628 रायगढ़ दिनांक 07.02.2022 एवं पत्र क्रं/एनटीईपी/2022/2329 रायगढ़ दिनांक 15.03.2022।
3. क्षेत्रीय अधिकारी, छत्तीसगढ़ पर्यावरण संरक्षण मंडल जिला रायगढ़ को प्रेषित कार्यालयीन पत्र क्रं/एनटीईपी/2021/12505 रायगढ़ दिनांक 28.10.2021

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उपरोक्त संदर्भित विषयान्तर्गत नेशनल ग्रीन ट्रीब्यूनल, नई दिल्ली द्वारा O.A. 104/2018 में दिनांक 15.02.2022 को पारित आदेश में, रायगढ़ जिले में तमनार तथा घरघोड़ा विकासखण्डों के ग्रामों में औद्योगिक संस्थानों तथा माइन्स के द्वारा उत्पन्न होने वाले वायुप्रदूषण के फलस्वरूप विभिन्न प्रकार की स्वास्थ्य समस्याओं का निराकरण किये जाने हेतु आदेशित किया गया है। उक्त आदेश के परिपालन में की गई कार्यवाही का विवरण निम्नानुसार है:-

1. नेशनल ग्रीन ट्रीब्यूनल, नई दिल्ली द्वारा O.A. 104/2018 में दिनांक 15.02.2022 को पारित आदेश के तहत रायगढ़ जिले में विकासखण्ड तमनार एवं घरघोड़ा तहसील के खदानों व पावर प्लांटों के आस-पास के गांवों में (घरघोड़ा विकासखण्ड अंतर्गत टेण्डा नवापारा, डेहरीडीह तथा तमनार विकासखण्ड अंतर्गत मिलूपारा, खमरिया, डोंगामहुआ, दक्षिण रेगांव, सारसमल, धौराभांठा, कुंजेमुरा, सराईटोला, रोड़ोपाली, गारे, डोलेसरा एवं आस-पास के अन्य गांव) ग्रामीणों के संपूर्ण स्वास्थ्य जांच एवं उपचार हेतु प्रत्येक सप्ताह स्वास्थ्य परीक्षण शिविर आयोजित किये किये जाने हेतु निर्देशित किया गया है।
उक्त निर्देश के परिपालन में विकासखण्ड तमनार एवं घरघोड़ा द्वारा खदानों व पावर प्लांटों के आस-पास के गांवों में स्वास्थ्य शिविर आयोजित किया गया जिसमें संदर्भित पत्र क्रं 01 एवं 02 द्वारा प्रेषित प्रतिवेदन सादर संलग्न है (प्रदर्श - 1)
2. संदर्भित पत्र क्रं 03 अनुसार क्षेत्रीय अधिकारी, छत्तीसगढ़ पर्यावरण संरक्षण मंडल जिला रायगढ़ (छ.ग.) द्वारा माननीय राष्ट्रीय हरित अधिकरण प्रिंसिपल बैंच, नई दिल्ली के दायर वाद क्रमांक 104/2018, शिवपाल भगत व अन्य विरुद्ध यूनियन ऑफ इंडिया व अन्य के संबंध में गठित ओवर साईट कमिटी के अध्यक्ष माननीय श्री व्ही.के.श्रीवास्तव, पूर्व न्यायाधीश छ.ग. हाईकोर्ट के द्वारा विकासखण्ड तमनार एवं घरघोड़ा में संचालित स्वास्थ्य सुविधाओं की जानकारी (स्वास्थ्य सुविधा की संख्या, स्थान, प्रकार तथा उपलब्ध डॉक्टर, अन्य कर्मचारी एवं चिकित्सा सुविधाओं की संस्थावार जानकारी) प्रस्तुत करने हेतु निर्देशित किया गया है।
उक्त निर्देश के परिपालन में क्षेत्रीय अधिकारी, छत्तीसगढ़ पर्यावरण संरक्षण मंडल जिला रायगढ़ (छ.ग.) को प्रेषित विकासखण्ड तमनार एवं घरघोड़ा से प्राप्त मानव संसाधन एवं स्वास्थ्य सुविधाओं की जानकारी एवं फोर्टिस ओ.पी. जिंदल हॉस्पिटल एण्ड रिसर्च सेंटर तमनार में उपलब्ध मानव संसाधन तथा स्वास्थ्य सुविधाओं की जानकारी सादर संलग्न है। (प्रदर्श -2)

कमशः -2-



कार्यालय, मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, रायगढ़ (छ.ग.)

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3. विकासखण्ड तमनार एवं घरघोड़ा तहसील के खदानों व पावर प्लांटों के आस-पास के गांवों में (घरघोड़ा विकासखण्ड अंतर्गत टेण्डा नवापारा, डेहरीडीह तथा तमनार विकासखण्ड अंतर्गत मिलूपारा, खमरिया, डोंगामहुआ, दक्षिण रेगांव, सारसमल, धौराभांठा, कुंजेमुरा, सराईटोला, रोड़ोपाली, गारे, डोलेसरा एवं आस-पास के अन्य गांव) ग्रामीणों के संपूर्ण स्वास्थ्य जांच एवं उपचार हेतु प्रत्येक सप्ताह स्वास्थ्य परीक्षण शिविर तथा चिकित्सा महाविद्यालय के विशेषज्ञ चिकित्सकों द्वारा स्वास्थ्य जांच उपरांत प्राप्त रिपोर्ट अनुसार खदानों एवं फैक्ट्री के कारण होने वाले गंभीर बीमारी के कोई भी मरीज नहीं पाये गये हैं।

संलग्न :- उपरोक्तानुसार ।

मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी

जिला-रायगढ़ (छ.ग.)

/ रायगढ़, दिनांक 12/07/22

पृ.क्र./ N.T.E.P./2022/ 9388-95

प्रतिलिपि :-

1. संचालक, स्वास्थ्य सेवायें छत्तीसगढ़ की ओर सादर सूचनार्थ।
2. अवर सचिव, छत्तीसगढ़ शासन लोक स्वास्थ्य एवं परिवार कल्याण विभागमंत्रालय, महानदी भवन, नवा रायपुर (छ.ग.) की ओर सादर सूचनार्थ।
3. कलेक्टर महोदय, जिला - रायगढ़ (छ.ग.) की ओर सादर सूचनार्थ।
4. उप संचालक (क्षय) संचालनालय स्वास्थ्य सेवायें छ.ग. की ओर सादर सूचनार्थ।
5. अधिष्ठाता, स्व. श्री लखीराम अग्रवाल स्मृति चिकित्सा महाविद्यालय रायगढ़ की ओर सादर सूचनार्थ।
6. क्षेत्रीय अधिकारी, छत्तीसगढ़ पर्यावरण संरक्षण मंडल रायगढ़ छ.ग. की ओर सूचनार्थ।
7. खण्ड चिकित्सा अधिकारी सामु.स्वा.केन्द्र घरघोड़ा/तमनार की ओर सूचनार्थ एवं आवश्यक कार्यवाही।
8. जिला कार्यक्रम प्रबंधक, राष्ट्रीय स्वास्थ्य मिशन स्थानीय कार्यालय की ओर सूचनार्थ एवं आवश्यक कार्यवाही।

मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी
जिला-रायगढ़ (छ.ग.)

रायगढ़ जिले मे स्थापित फलाई एश ब्रिक्स उद्योग की जानाकरी

क्रं.	उद्योग का नाम व पता	उत्पादन क्षमता	उत्पादन दिनांक
1	मेसर्स अम्बे. फलाई एस ब्रिक्स ग्राम पूंजीपथरा तहसील तमनार	3000000 नग	18-03-2010
2	मेसर्स जे.के. फलाई एस ब्रिक्स ग्राम टेंगानापली तहसील सारंगढ़	2700000 नग	30-04-2010
3	मेसर्स मंगल ब्रिक्स ग्राम बानीपाथर तह0 खरसियां	3600000 नग	22-06-2010
4	मे0 अग्रवाल ब्रिक्स उद्योग ग्राम आमाघट तहसील तमनार	1000000 नग	16-04-1998
5	मेसर्स आर के ब्रिक्स बिंजकोट तह0 खरसियां	2100000 नग	21-10-2010
6	मेसर्स प्रिस फलाई एश ब्रिक्स ग्राम जोरापाली तहसील	2000000 नग	01-12-2010
7	मेसर्स कृष्णा फलाई एश प्रोडक्ट, ग्राम कोड़ातराई तह0	4500000 नग	03-08-2011
8	मेसर्स तुलेश फलाई एश ब्रिक्स ग्राम बजरमुड़ा तह. तमनार	1500000 नग	07-06-2011
9	मेसर्स नरेश कुमार अग्रवाल ग्राम टेंण्डा तहसील घरघोड़ा	6000000 नग	01-06-2012
10	मेसर्स भूमिका फलाई एश ब्रिक्स ग्राम बादपाली तह. रायगढ़	675000 नग	12-07-2005
11	मेसर्स श्री श्यामजी ब्रिक्स ग्राम भालूनारा तहसील खरसियां	7600000 नग	01-05-212
12	मेसर्स बड़देव फलाई एश ब्रिक्स ग्राम समकेरा तह. तमनार	3000000 नग	20-09-2012
13	मेसर्स मिश्रा इण्डस्ट्रीज ग्राम सहसपुर तहसील धर्मजयगढ़	6000000 नग	01-01-2012
14	मेसर्स चैतन्य इण्डस्ट्रीज ग्राम नवापाली तहसील पुसौर	4500000 नग	10-11-2012
15	मेसर्स महावीर फलाई एश ब्रिक्स ग्राम नवापाली तहसील बरमकेला	3000000 नग	01-03-2012
16	मे0 बालाजी फलाई एश ब्रिक्स ग्राम गुड़ेली तहसील सारगढ़	4000000 नग	05-07-2012
17	मे0 जय बालाजी फलाई एश ब्रिक्स ग्राम नवापारा तहसील धर्मजयगढ़	3000000 नग	15-05-2013
18	मे0 श्री कृष्ण फलाई एश इण्ड0 ग्राम बोदा तहसील बरमकेला	4800000 नग	01-05-2012
19	मे0 श्री पटेल फलाई एश ब्रिक्स ग्राम छाल धर्मजयगढ़	2000000 नग	11-06-2013
20	मे0 अरुण फलाई एश ब्रिक्स ग्राम मुड़पार तहसील सारगढ़	3000000 नग	10-11-2103
21	मे0 स्वास्तिक फलाई एश ब्रिक्स ग्राम मदनपुर तहसील खरसियां	300000 नग	07-02-2013
22	मे0 आरव इन्टरप्राईजेस ग्राम भालूनारा तहसील खरसियां	600000 नग	01-11-2013
23	मे0 महावीर इण्ड0 ग्राम नवापाली तहसील पुसौर जिला रायगढ़	3000000 नग	05-10-2014
24	मे0 रामलाल साव फलाई एश ब्रिक्स ग्राम बड़माल तह0 पुसौर	2500000 नग	01-03-2014
25	मेसर्स गुलशन फलाई एश ब्रिक्स ग्राम दहीडाढ़ तह. धर्मजयगढ़	3500000 नग	24-07-2012
26	मे0 मनहर ब्रिक्स ग्राम ग्वालनडीह तहसील सारगढ़ जिला रायगढ़	3600000 नग	15-03-2013
27	मे0 गणपतिजी फलाई एश ब्रिक्स ग्राम कोसमघाट तहसील घरघोड़ा	5000000 नग	10-07-2013
28	मेसर्स जगेश्वर फलाई एश ब्रिक्स ग्राम बागबाडी तह. तमनार	2500000 नग	25-08-2014
29	मे0 भगवती फलाई एश ब्रिक्स ग्राम मौहापाली तहसील सारंगढ़	4000000 नग	10-02-2015

30	मे० शिवशक्ति फलाई एश ब्रिक्स ग्राम तंडीपार तहसील सारगढ	5000000 नग	26-06-2015
31	मे० एन.एन.जी फलाई एश ब्रिक्स ग्राम नवापारा टेण्डा तह० घरघोडा	4000000 नग	07-07-2015
32	मे० श्री गणेश फलाई एश ब्रिक्स ग्राम बड़माल तह० पुसौर	4500000 नग	01-08-2015
33	मे० श्री बिक्स उद्योग ग्राम भाठनपाली तह० पुसौर जिला रायगढ	12000000 नग	20/02/2016
34	मे० ज्योति फलाई एश ब्रिक्स ग्राम भटगांव तह० सारंगढ	5000000 नग	15/02/2016
35	मे० रुद्राक्ष फलाई एश ब्रिक्स ग्राम केटेली तह० सारगढ	3000000 नग	11/11/2016
36	मे० श्याम फलाई एश ब्रिक्स ग्राम झलमला तह० पुसौर	6000000 नग	20/08/216
37	मे० सीआरजी ब्रिक्स ग्राम छाल तहसील धर्मजयगढ	2880000 नग	30/05/2016
38	मे० शर्मा फलाई एश ब्रिक्स ग्राम सोनपुर तह० धर्मजयगढ	3000000 नग	10/11/2016
39	मे० जयबाबा श्री श्याम फलाई एश ब्रिक्स ग्राम नावापारा छाल	3600000 नग	5/11/2017
40	मे० श्री साई ब्रिक्स ग्राम कोसमनारा तह० रायगढ	3600000 नग	28/12/2016
41	मे० यूनिका सेल ग्राम पटेलपाली तह० पुसौर	8424000 नग	15/11/2017
42	मे० रुद्र ब्रिक्स ग्राम उद्योग गढउमरिया तह० पुसौर	6000000 नग	15/03/2017
43	मे० श्रीजी बिक्स ग्राम कोसमनारा तहसील रायगढ	4800000 नग	30/11/2017
44	मे० मां नाथलदाई फलाई एश ब्रिक्स ग्राम टिमरलगा तह० सारंगढ	4800000 नग	4/12/2017
45	मे० ललित फलाई एश ब्रिक्स ग्राम छिन्द तह० सारगढ	1800000 नग	27/12/2017
46	मे० नरेश कुमार अग्रवाल ग्राम नवापारा टेण्डा तह० धर्मजयगढ	8000000 नग	20/05/2017
47	मे० श्री कामाक्षी फलाई एश ब्रिक्स ग्राम झाराडीह तह० खरसियां	6000000 नग	13/01/2018
48	मे० श्री दुर्गा फलाई एश ब्रिक्स ग्राम जोरापाली तह० रायगढ	9000000 नग	1/1/2018
49	मे० शिवनाथ फलाई एश ब्रिक्स ग्राम चांटीपली तह० सारंगढ	4000000 नग	5/1/2018
50	मे० प्रिंस फलाई एश बिक्स ग्राम झारपाली तह० सारंगढ	6000000 नग	20/08/2017
51	मे० पटेल फलाई एश ब्रिक्स ग्राम कांदुरपाली तह० सारंगढ	7200000 नग	20/05/2018
52	मे० बालाजी फलाई एश ब्रिक्स ग्राम घोराघाटी तहसील सारगढ	5400000 नग	1/8/2018
53	मे० आर०के० इण्ड० ग्राम कांशीचुवां तह० रायगढ	8000000 नग	2/2/2018
54	मे० आशीवाद फलाई एश ब्रिक्स ग्रा जकेला तह० तमनार	2000000 नग	25/06/2018
55	मे० हनुमान फलाई एश ब्रिक्स ग्राम उदउदा तह० धर्मजयगढ	3200000 नग	17/07/2018
56	मे० काली फलाई एश ब्रिक्स ग्राम बोन्दा तह० बरमकेला	1300000 नग	17/02/2018
57	मे० रवि फलाई एश ब्रिक्स ग्राम तेतला तह० पुसौर	3000000 नग	15/02/2019
58	मे० ए वन फलाई एश ब्रिक्स ग्राम मांझीआमा तह० लैलूंगा	6000000 नग	18/06/2017
59	मे० नरेश कुमार अग्रवाल ग्राम कटंगडीह तह० घरघोडा	36000000 नग	15/06/2021
60	मे० एके ब्रिक्स ग्राम धनागर, तह० रायगढ	5760000 नग	01/12/2021
61	मे० आदित्य इण्डस्ट्रिज, ग्राम कटंगपाली, तह सारंगढ	3600000 नग	05/12/2021

62	मे० पीएनसी इण्डस्ट्रिज, ग्राम खैरपुर, तह० रायगढ़	5000000 नग	07/07/2021
63	मे० लेखराम अग्रवाल, ग्राम गेरवानी, तह० रायगढ़	52560000 नग	15/01/2021
64	मे० नायक इण्डस्ट्रिज, ग्राम सलखिया, तह० लैलूंगा	7200000 नग	01/04/2018
65	मे० साई ब्रिक्स, कोसमनारा, तह० रायगढ़	3600000 नग	28/12/2016
66	मे० मैजिक ब्रिक्स, ग्राम नवागांव, तह० खरसिया	600000 नग	15/01/2018
67	मे० पटेल प्लाई ऐश ब्रिक्स, ग्राम कनमुरा, तह० खरसिया	5000000 नग	25/09/2018

BK 11/7-22

मुख्य महाप्रबंधक

जिला व्यापार एवं उद्योग केन्द्र

रायगढ़

जिला रायगढ़ में उद्योगों में स्थापित एवं संचालित फ्लाई ऐश ब्रिक्स निर्माण इकाई की क्षमता की जानकारी

क्र.	उद्योग का नाम	फ्लाई ऐश ब्रिक्स निर्माण इकाई की क्षमता (प्रतिदिन)
1.	मेसर्स जिंदल स्टील एण्ड पॉवर लिमिटेड, ग्राम-पतरापली, जिला-रायगढ़	300,000 नग
2.	मेसर्स नलवा स्टील एण्ड पॉवर लिमिटेड, ग्राम-तराईमाल, जिला-रायगढ़	20,000 नग
3.	मेसर्स सिंघल इंटरप्राइजेज प्राईवेट लिमिटेड, ग्राम-तराईमाल, जिला-रायगढ़	30,000 नग
4.	मेसर्स श्री श्याम इस्पात (इण्डिया) प्राईवेट लिमिटेड, ग्राम-तराईमाल, जिला-रायगढ़	20,000 नग
5.	मेसर्स एम.एस.पी. स्टील्स एण्ड पॉवर लिमिटेड, ग्राम-जामगांव, जिला-रायगढ़	32,000 नग
6.	मेसर्स सालासार स्पंज एण्ड पॉवर लिमिटेड, ग्राम-गेरवानी, जिला-रायगढ़	77,000 नग
7.	मेसर्स अंजनी स्टील्स प्राईवेट लिमिटेड, ग्राम-उज्जवलपुर, जिला-रायगढ़	10,000 नग
8.	मेसर्स नवदुर्गा फ्यूल प्राईवेट लिमिटेड, ग्राम-सराईपाली, जिला-रायगढ़	10,000 नग
9.	मेसर्स जे.एस.डब्ल्यू. इस्पात एवं स्पेशल प्रो. लिमि., ग्राम-नहरपाली, जिला-रायगढ़	27,000 नग
10.	मेसर्स मॉ काली एलायज प्राईवेट लिमिटेड, ग्राम-पाली, जिला-रायगढ़	8,000 नग
11.	मेसर्स स्काय एलॉय प्राईवेट लिमिटेड, ग्राम-टेमटेमा, जिला-रायगढ़	14,000 नग
12.	मेसर्स एन.आर. इस्पात एण्ड पॉवर लिमिटेड, ग्राम-गौरमुड़ी, जिला-रायगढ़	8,000 नग
13.	मेसर्स सिंघल इनर्जी लिमिटेड, ग्राम-तराईमाल, जिला-रायगढ़	10,000 नग
14.	मेसर्स बी.एस. स्पंज प्राईवेट लिमिटेड, ग्राम-तराईमाल, जिला-रायगढ़	10,000 नग
15.	मेसर्स जिंदल पॉवर लिमिटेड, ग्राम-तमनार, जिला-रायगढ़	1,50,000 नग
16.	मेसर्स जिंदल स्टील एण्ड पॉवर लिमिटेड, ग्राम-डोंगामहुआ, जिला-रायगढ़	20,000 नग
17.	मेसर्स एम.एस.पी. स्पंज आयरन लिमिटेड, ग्राम-मनुआपाली, जिला-रायगढ़	25,000 नग
18.	मेसर्स महावीर इनर्जी एण्ड कोल बेनिफिकेशन लिमिटेड, ग्राम-भेंगारी, जिला-रायगढ़	8,000 नग
19.	मेसर्स आर.आर. इनर्जी लिमिटेड, ग्राम-गढ़उमरिया, जिला-रायगढ़	1,500 नग
20.	मेसर्स एस.के.एस. पॉवर जनरेशन (छत्तीगढ़) लिमिटेड, ग्राम-बिंजकोट, तहसील-खरसिया, जिला-रायगढ़	30,000 नग
21.	लारा सुपर थर्मल पॉवर प्रोजेक्ट, मेसर्स एन.टी.पी.सी. लिमिटेड, ग्राम-लारा, जिला-रायगढ़	60,000 नग
22.	मेसर्स इण्ड पॉवर लिमिटेड, ग्राम-कोटमार, मौहापाली, जिला-रायगढ़	10,000 नग

Minutes of the meeting of Joint Committee**OA No. 104/2018 Shivpal Bhagat & Ors. Vs Union of India & Ors.**

Hon'ble NGT in OA No.-104/2018 Shivpal Bhagat vs. Union of India has accepted the recommendation made by oversight committee and has set few directions in its order dated 15.02.2022 to be looked after by the Joint Committee and submit the status of compliance as on 30.06.2022. In compliance of said direction from Hon'ble NGT the first meeting was convened during 19-20th April 2022. The meeting was attended by members as under-

1. Dr. R. P. Mishra Scientist "D" Central Pollution Control Board, Bhopal- Nodal Officer
2. Dr. Paras Ranjan Pujari, Senior Principal Scientist, NEERI, Nagpur- Member
3. Dr. Bhardwaj Adiraju Scientist 'C' MoEF&CC, IRO Raipur- Member
4. Sh. P. K. Gupta, Dy.Collector , Raigarh- Member
5. Sh. S.K. Verma, Regional Officer, CECB, Raigarh- Member

The committee has elaborately discussed all the directions set by Hon'ble NGT in its order dated 15.02.2022 during meeting in Raigarh and also visited the site as required. The committee has also briefed about directions to all stakeholders and set target dates for further compliances. Point wise observation of the committee on direction issued by Hon'ble NGT is an under-

- (a) Chhattisgarh Environment Conservation Board has issued Notices to State PWD, Health Department and concerned units on date 03.03.2022 to deposit the assed compensation. In compliance of notice issued M/s Jindal Power Limited Tamnar and M/s. Jindal Steel &

Power Limited, Dongramau, Tamnar have deposited the compensation amount. The copy of statement issued by CECB is attached as **Annexure-01**.

(b) Status of remedial measures taken by CPCB, State PCB, State of Chhattisgarh is as under-

1. The representative of state PWD has attended the meeting and submitted the progress of work-as

- Construction of bitumen road from Jampali to Gharghoda – total length 19 km – work order issued on 02.08.2021- target completion date – November-2022. Order copy attached as **Annexure-02. (Action by – State PWD)**
- Construction of bitumen road from Raigarh to Dharmanjaygarh- total length – 56 km – work order issued on 10-01-2022, target completion time – 36 months i.e 10.01.2025 Order copy attached as **Annexure-03. (Action by – State PWD)**
- Construction of CC road – Panjipatra – Tamnar- Millupara-total length-23 km, under tendering process. **(Action By- State PWD)**

2. Representative of State Health Department also attended the meeting and submitted progress as-

- Collector Raigarh has issued order on 24-03-2022 to M/s OP Jindal Fortis Hospital for providing free health checkup and treatment facility to villagers of Gharghoda, Dehrideeh, Tenda Nawapara, Millupara, Khamaria, Kunjmura, Dongamahua, Gare, Dolesara, Saritola, South Regaon, Dhaurabhata, Sarasmal, Rodopali villagers and other nearby villagers. Copy of the order is attached at **Annexure- 04.**

As directed by Hon’ble NGT in para 16 of the order State PWD, Health Department and other entity have not submitted affidavit of compliance. **(Action by- State PWD and Health Department)**

3. In compliance of MoEF&CC notification dated 31.12.2021, Chhattisgarh Environment Conservation Board has issued permission to various industries for disposal of fly-ash in low lying areas and stone queries. List of industries to whom permission has been granted are as under-

Sl. No.	Name of Industries	Location		Total Quantity of Ash in MT
		Khasra No.	Rakba in Hect.	
1.	M/s. Jindal Power Limited, Tamnar, District-Raigarh (C.G.)	1917	0.611	25,000
2.	M/s. Jindal Power Limited, Tamnar, District-Raigarh (C.G.)	516/3	0.769	40,000
3.	M/s. Jindal Power Limited, Tamnar, District-Raigarh (C.G.)	197 252-259 584, 427, 418 398-401, 406 393-397	4.271 5.155 4.03 9.913	2,00,000
4.	M/s. DB Power Limited, Vill.-Bada Darha, The-Dabhara, District-Jangir Champa (C.G.)	388, 311, 300, 256	0.129,0.0121,0.068 0.220,0.242,0.121 0.101	2,30,000
5.	M/s. DB Power Limited, Vill.-Bada Darha, The-Dabhara, District-Jangir Champa (C.G.)	466/2Ga	0.405	45,000
6.	M/s. JSW Ispat Special Products Limited, Vill.-Naharpali, The-Kharsia, District- Raigarh (C.G.)	515	0.194 0.052 0.405	1,40,000
7.	M/s. Raigarh Energy Generation Limited, Vill.-Chhota Bhandar, Post-Bade Bhandar, The-Pussore, District-Raigarh (C.G.)	1882 1882	0.466	30,000
8.	M/s. JSW Ispat Special Products Limited, Vill.-Naharpali, The-Kharsia, District- Raigarh (C.G.)	1882	0.466	15,000
9.	M/s. Singhal Enterprises Pvt. Ltd. Vill.-Taraimal, District-Raigarh (C.G.)	516/3	0.769	40,000
10.	M/s. DB Power Limited, Vill.-Bada Darha, The-Dabhara, District-Jangir Champa (C.G.)	324, 301, 383, 320, 388, 126, 261, 324,	0.138,0.72,0.214 0.129,0.181,0.138 0.520,0.660,0.648 0.133,0.598,0.138 0.072,0.129,0.161 0.138,0.530,0.069 1.245	1,50,000
11.	M/s. R.K.M. Powergen Pvt. Ltd., Vill.,- Uchhpinda, Tehsil-Dabhara, District-Janjgir Champa (C.G.)	448-449,461, 388, 311, 300, 309, 256, 300	0.023,0.137,0.158 0.129,0.012,0.068 0.220,0.242,0.200 0.129,0.101,0.303 0.750	
Total			36.3116	9,15, 000

Chhattisgarh Environment Conservation Board may utilize technical aspects for calculation of fly ash quantity with respect to area and depth of proposed low lying area projects. Remote sensing study of the area may be useful for giving technical support to issue permission for disposal of fly ash in low lying area projects.

In Raigarh District disposal of fly-ash is in the major issue to be handled by SPCB as there is limited options for its utilization. The major source to be utilized for disposal of fly-ash are its mixing (25%) with OB dump, backfilling or stowing of mine (running or abandoned as the case may be). This has also been made mandatory in Notification dated 31.12.2021 (B-38).

As per district environmental plan of Raigarh, there are 10 operational coal mine which may use much quantity of fly-ash generated in District-Raigarh. Out of these 10 coal mines only 02 mines are utilizing fly-ash in backfilling process after obtaining EC and permission from DGMS. Ministry of Environmental, Forest and Climate Changes has issued guideline on 28th August, 2019 regarding exemption of requirement of any change in Environmental clearance of thermal power plants and coal mines along with the guidelines to be followed for such disposal.

In this context grant of permission from DGMS to coal mine seems to be more useful option for improving utilization of fly-ash in Raigarh District. – **(Action by – Collector Raigarh, Coal Mines & DGMS Jointly)**

- With regard to carrying capacity study CPCB has provided details of experts/ Agencies to MS, Chhattisgarh Environment Conservation Board during meeting in CECB office on 21-04-2022. CECB is to invite proposal for carrying capacity study and issue work order accordingly within one month – **(Action by- CECB)**.
 - Installation of CCTV cameras and CAAQMS in TPP and coal mines are still to be complied, CECB shall obtain time bound action plan with appropriate bank guarantee from Thermal Power Plants and coal mines in accordance with EC/Consent conditions which include requirement to comply with water and Air Act. **(Action by- CECB)**.
- (c) Chhattisgarh Environment Conservation Board has issued letters on date 03.03.2022 to all concerned units for filing their response if any within one month. **Copy of the letter is placed at Annexure- 05.**

- (d) Chhattisgarh Environment Conservation Board, Regional officer, Raigarh have been directed by the committee to collect the information required and submit the same in the next meeting of the committee. **(Action by- CECB)**
- (e) Chhattisgarh Environment Conservation Board, Regional officer, Raigarh has issued notices to project proponent in question to ensure proper operation of sprinklers for suppression of fly ash during summer season. **(Copy of the notice is attached at Annexure- 06)** The committee has also directed RO, CECB, Raigarh, for conducting surprise inspections of the site and submit inspection report with photographs in the next meeting of the committee. **(Action by- RO, CECB)**
- (f) Member Secretary, CECB has informed the committee that Board is in process of compilation of fly-ash data to ensure its scientific utilization in future. The compiled data will be submitted to committee with in one month and the same will be utilized for preparation time bound plan for removal of fly-ash in Raigarh District.
- (g) In compliance with Notifications dated 31.12.2021 issued by MoEF&CC, CECB has issued notice to all industries of Raigarh District for submitting audit report of fly-ash generation and management on or before 15.05.2022.
- (h) Concerned division of CPCB is in process of preparing guidelines for redetermination of compensation inter-alia with M.C. Mehta& anr vs. Union of India, Sterlite industries India Ltd. vs. Union of India. The guidelines will be provided to all PCBs,/PCCs shortly.
- (i) Collector district Raigarh has issued order to all concerned department on 25.03.2022 for providing information with respect to submission of the claims. **Copy of the letter is placed at Annexure-07.** As informed by district administration representative in the committee Collector Raigarh has not received any claim from any victim of Raigarh District as on 19.04.2022. **(Action by- Collector Raigarh)**
- (j) The representative of district administration has ensured to cover all the aspect in District Environment Plan after finalization of time bound action plan by the committee. **(Action by- Collector, Raigarh)**
- (k) The joint committee has discussed the issue of effective monitoring mechanism and suggest the following for further action by concerned on continuous basis.

- ❖ Chhattisgarh Environment Conservation Board, Regional Office, Raigarh shall make fly-ash management wing of appropriate members dedicated for field inspection and reporting. The competent authority of CECB shall provide required man power for the same urgently. **(Action by – MS-CECB)**
- ❖ The fly-ash management cell shall visit all Thermal Power Plants, Coal Mines and Low-lying disposal projects once in fortnight to ensure implementation of SOP in Low-lying area disposal projects, check illegal disposal of fly-ash in Raigarh District, covered transport of fly-ash and utilization of fly-ash in backfilling of coal mines and mixing with OB dump. **(Action by- CECB, RO, Raigarh)**
- ❖ District administration shall develop portal/mobile app/Whatsapp link to facilitate public for providing information about illegal dumping of fly-ash and submit their grievances about fly-ash management in Raigarh. Strict action within 24 hrs shall be ensured by district administration on complaints received on portal/mobile app/whatsapp with information to complaint about action taken. **(Action by- Collector Raigarh)**
- ❖ The Joint Committee will convene monthly meeting at Raigarh and Chhattisgarh Environment Conservation Board will submit monthly progress report for fly-ash management in the meeting.

It has been decided to conduct next meeting of the committee during 25-27th May 2022.

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Scientist 'C'
MoEF&CC, IRO Raipur

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Senior Principal Scientist,
NEERI, Nagpur

Sh. P. K. Gupta,
Dy. Collector ,
Raigarh

Sh. S.K. Verma,
Regional Officer,
CECB, Raigarh

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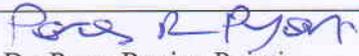
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छत्तीसगढ़ पर्यावरण संरक्षण मंडल

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क्रमांक 552/मुख्या./तक./छ.ग.प.सं.मं/2022
प्रति,

नवा रायपुर अटल नगर, दिनांक 26/4/2022

✓
डॉ. आर.पी. मिश्रा,

वैज्ञानिक 'डी'-डीएच-आईएफडी

नोडल अधिकारी (एनजीटी प्रकरण 104/2018)

केन्द्रीय प्रदूषण नियंत्रण बोर्ड,

(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय)

क्षेत्रीय निदेशालय (केन्द्रीय),

प्रवेश भवन, पर्यावरण परिषद, ई-5, अरेरा कॉलोनी,

भोपाल (एम.पी.) 462016

विषय :- पर्यावरणीय क्षतिपूर्ति जमा करने बाबत।

संदर्भ :- ओ.ए. क्रमांक 104/2018 शिवपाल भगत एवं अन्य विरुद्ध भारत सरकार एवं अन्य में माननीय एनजीटी नई दिल्ली द्वारा जारी आदेश दिनांक 15/02/2022.

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उपरोक्त विषयान्तर्गत ओ.ए. क्रमांक 104/2018 शिवपाल भगत एवं अन्य विरुद्ध भारत सरकार एवं अन्य में माननीय एनजीटी नई दिल्ली द्वारा जारी आदेश दिनांक 15/02/2022 के पालनार्थ उद्योग (1) मेसर्स जिंदल पॉवर लिमिटेड, तमनार, जिला-रायगढ़ के द्वारा पत्र दिनांक 11/04/2022 के माध्यम से पर्यावरणीय क्षतिपूर्ति राशि रु. 48,30,000/- मात्र (अठतालीस लाख तीस हजार रूपये मात्र) एवं (2) मेसर्स जिंदल स्टील एण्ड पॉवर लिमिटेड, डोंगामहुआ, जिला-रायगढ़ के द्वारा पत्र दिनांक 12/04/2022 के माध्यम से पर्यावरणीय क्षतिपूर्ति राशि रु. 11,70,000/- मात्र (ग्यारह लाख सत्तर हजार रूपये मात्र) जमा की गई है। उद्योगों द्वारा जमा की गई राशि से संबंधित पत्रों की प्रति संलग्न कर सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है।

संलग्न :- उपरोक्तानुसार।

सदस्य सचिव

छत्तीसगढ़ पर्यावरण संरक्षण मंडल,
नवा रायपुर अटल नगर, जिला-रायपुर (छ.ग.)

पृ.क. / मुख्या. / तक / छ.ग.प.सं.मं. / 2022
प्रतिलिपि :-

नवा रायपुर अटल नगर दिनांक / / 2022

क्षेत्रीय अधिकारी, क्षेत्रीय कार्यालय, छत्तीसगढ़ पर्यावरण संरक्षण मंडल, रायगढ़ जिला-रायगढ़ की ओर संलग्नों सहित सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है।

सदस्य सचिव

छत्तीसगढ़ पर्यावरण संरक्षण मंडल,
नवा रायपुर अटल नगर, जिला-रायपुर (छ.ग.)



JINDAL
POWER

WITHOUT PREJUDICE

EC Date: 11.04.2022

To
✓ The Member Secretary
Chhattisgarh Environment Conservation Board
Paryavas Bhavan, North Block Sec.19
Atal Nagar, Naya Raipur,
Chhattisgarh – 492002

Received Rs. 48,30,000/- by cash
D.D./Ch. No. 512735 Dt. 11/04/2022
MR. No. 117/28 Dt. 13/04/2022
Deepa
Dealing Clerk Section Officer

Subject: - Payment of Environmental Compensation under protest.

Ref.: - (i) Letter no. 2567 dated 03.03.2022 issued by Chhattisgarh Environment Conservation Board, Raigarh (CECB) ('Letter'); (ii) Order dated 15.02.2022 issued by the Hon'ble Nation Green Tribunal in the matter of Shivpal Bhagat v. Union of India (O.A. No. 104/ 2018)

Dear Sir,

1. This is with reference to the abovementioned Letter dated 03.03.2022 ('Letter'), received by the Jindal Power Limited, Tamnar on dated 8th March 2022 whereby the Company has been called upon to deposit the environmental compensation as interim compensation for alleged violations by the Company. However, it is Company's case that the said compensation has been wrongly assessed and affirmed by the Oversight Committee in its Report dated 16.12.2021 and erroneously relied upon by the Hon'ble NGT vide order dated 15.02.2022 ('Order').
2. Vide the Order, an amount of Rs. 48,30,000/- has been imposed as interim environmental compensation on the Company. Such imposition/levy is disputed for being patently illegal, without jurisdiction, arbitrary and unreasonable as the same has been levied based on visual assessment and is uncorroborated by scientific evidence/data and the Company is taking requisite steps in this regard to challenge the same.

Jindal Power Limited

CIN No. : U04010CT1995PLC008985

Corporate Office Jindal Centre, 12 Bhikaiji Cama Place, New Delhi 110 066

T +91 11 4146 2000 F +91 11 2616 1271 E info@jindalpower.com W www.jindalpower.com

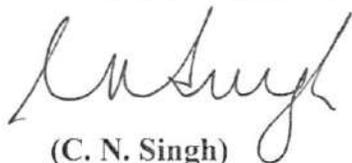
Registered Office Tamnar 496 107, District Raigarh, Chhattisgarh

3. Without prejudice to the above and under protest, we are herewith enclosing a Demand Draft No. 512735 dated 11.04.2022 of Rs. 48,30,000/- (Rupees forty eight lakhs thirty thousand only) in favour of MS (EC), C. G. Environment Conservation Board.
4. As noted above, the said payment is being made without prejudice and may not be considered as an admission of any kind. The Company specifically reserves its rights to challenge the imposition of compensation in appropriate legal proceedings, including but not limited to, seeking refund of the amount being paid under the cover of the present letter.

Thanking you.

Yours Sincerely

For Jindal Power Limited



(C. N. Singh)

Executive Director & Plant Head



Cc: The Regional Officer,

Chhattisgarh Environment Conservation Board,

T.V. Tower Road, Raigarh (C.G.)



JINDAL
STEEL & POWER

WITHOUT PREJUDICE

Date: 12.04.2022

EC

To
✓ The Member Secretary
Chhattisgarh Environment Conservation Board
Paryavas Bhavan, North Block Sec.19
Atal Nagar, Naya Raipur,
Chhattisgarh – 492002

Received Rs. 1170000/- by cash
D.D./Ch. No. 512729 Dt. 31/03/2022
M/R. No. 117/27 Dt. 13/04/2022

Deepu
Dealing Clerk

Section Officer

Subject: - Payment of Environmental Compensation under protest.

Ref.: - (i) Letter no. 2567 dated 03.03.2022 issued by Chhattisgarh Environment Conservation Board, Raigarh (CECB) ('Letter'); (ii) Order dated 15.02.2022 issued by the Hon'ble Nation Green Tribunal in the matter of Shivpal Bhagat v. Union of India (O.A. No. 104/2018)

Dear Sir,

1. This is with reference to the abovementioned Letter dated 03.03.2022 ('Letter'), whereby the Company has been called upon to deposit the environmental compensation as interim compensation for alleged violations by the Company. However, it is Company's case that the said compensation has been wrongly assessed and affirmed by the Oversight Committee in its Report dated 16.12.2021 and erroneously relied upon by the Hon'ble NGT vide order dated 15.02.2022 ('Order').
2. Vide the Order, an amount of Rs. 11,70,000/- has been imposed as interim environmental compensation on the Company. Such imposition/levy is disputed for being patently illegal, without jurisdiction, arbitrary and unreasonable as the same has been levied based on visual assessment and is uncorroborated by scientific evidence/data and the Company is taking requisite steps in this regard to challenge the same.
3. Without prejudice to the above and under protest, we are herewith enclosing a Demand Draft No. 512729 dated 31.03.2022 of Rs. 11,70,000/- (Rupees eleven lacs seventy thousand only) in favour of MS (EC), C. G. Environment Conservation Board.

Jindal Steel & Power Limited

Work Office Jindal Steel & Power Limited, Dongamahua, Dhaurabhata (PO), Raigarh 496107 (CG)

T +91 7767-200401 – 04 (04 lines) F +91 7767 200400 W www.jindalsteelpower.com

Registered Office O. P. Jindal Marg, Hisar, 125 005, Haryana

Corporate Identity Number - L27105HR1979PLC009913

B.S.E. (R)

18 APR 2022

4. As noted above, the said payment is being made without prejudice and may not be considered as an admission of any kind. The Company specifically reserves its rights to challenge the imposition of compensation in appropriate legal proceedings, including but not limited to, seeking refund of the amount being paid under the cover of the present letter.

Thanking you.

Yours Sincerely

For Jindal Steel & Power Limited



(Arup Pal)

Executive Vice President & Unit Head

Cc: The Regional Officer,
Chhattisgarh Environment Conservation Board,
T.V. Tower Road, Raigarh (C.G.)

Jindal Steel & Power Limited

Work Office Jindal Steel & Power Limited, Dongamahua, Dhaurabhata (PO), Raigarh 496107 (CG)

T +91 7767-200401 – 04 (04 lines) F +91 7767 200400 W www.jindalsteelpower.com

Registered Office O. P. Jindal Marg, Hisar, 125 005, Haryana

Corporate Identity Number - L27105HR1979PLC009913

ANNEXURE-02

कार्यालय कार्यपालन अभियंता
लो;नि;वि; रायगढ संभाग
रायगढ(छ.ग.)

जापन क्र :- 4243/T0133/SAC/2021-2022/रायगढ(छ.ग.) दिनांक : 02/08/2021

प्रति,

मेसर्स राहुल कंस्ट्रक्शन

A, विवेकानंद नगर, रत्नाबांधा रोड, पोस्ट एवं
जिला-धमतरी (छ.ग.)

विषय : अम्बिकापुर रायगढ मार्ग के कि मी 139 से 157 लंबाई 19 00 का (घरघोडा बायपास से जामपाली एस
ई सी एल खदान तक) चौड़ीकरण एवं मजबूतीकरण कार्य का कार्य प्रारम्भ करने सम्वन्धी आदेश

सन्दर्भ : इस कार्यालय द्वारा जारी पत्र क्र. 3883 दिनांक 15/07/2021 |

उक्त सन्दर्भ मे आपके द्वारा निष्पादित अनुबन्ध के परिप्रेक्ष्य मे इस पत्र के माध्यम से
आपको विषयाकित्त कार्य प्रारम्भ करने हेतु आदेशित किया जाता है। कृप्या निष्पादित अनुबन्ध की शर्तों
के

अनुसार कार्य प्रारम्भ कर निर्धारित अवधि मे पूर्ण किया जाना सुनिश्चित करे। अनुबन्ध का मुख्य
विवरण

निम्नानुसार है -

- | | |
|-----------------------------|-------------------------------|
| 1. अनुबन्ध क्रमांक एवं वर्ष | - 104 / 2021-2022 |
| 2. निविदा की राशि | - रु. 4193.83 लाख |
| 3. स्वीकृत दर | - 13.11 प्रतिशत एस ओ आर से कम |
| 4. लागू एस ओ आर | |

एस ओ आर

SOR for Road Work (Civil) Issued by EinC PWD Chhattisgarh w.e.f.
01/01/15

दिनांक तक संशोधित

08/11/2017

SOR for Bridge and Culvert Work (Civil) Issued by EinC PWD
Chhattisgarh w.e.f. 01/01/15

08/11/2017

- | | |
|---|---|
| 5. अनुबन्ध की अवधि | - 15 माह 00 दनि (वर्षा ऋतु सहति) |
| 6. अनुबन्ध मे परफारमेंस गारंटी की
अवधि | - अनुबन्ध पूरणता के पश्चात 60 माह तक
- रु. 3644.02
लाख। |
| 7. अनुबन्ध की लागत निविदा दर सहित | |


कार्यपालन अभियंता
लो;नि;वि; रायगढ संभाग
रायगढ(छ.ग.)

पृष्ठा क्र :- 4243/T0133/SAC/2021-2022/रायगढ(छ.ग.) दिनांक : 02/08/2021

प्रतिलिपि :-

To,

ANNEXURE-03

M/s B.B. VermaA, HIG 09, C1 C2 Niharika Korba Distt. Korba
(C.G.)

Subject : Work Order of Tender for Widening and Renewal Work of Raigarh

Dharmjaigarh Road L 56 00 km

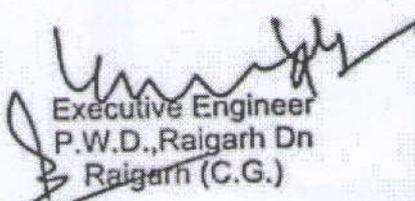
Reference : Memo No of this office - 8212, dated - 28/12/2021

In the context of the agreement executed by you, through this letter you are directed to start mentioned work. Please be undertaken in accordance with the terms of the executed contract to be completed within the stipulated time. The main details of the contract are as follows

1. Agreement No / Year - 201 / 2021-2022
2. PAC - Rs. 9012.63 Lacs.
3. Rate of contract - 12.8100 % SOR Below
4. SOR

SOR	Ammended
SOR for Road Work (Civil) Issued by EinC PWD Chhattisgarh w.e.f. 01/01/15	08/11/2017

5. Period - 36 Month 00 Days (Rainy Season Included)
6. PG - 60 Month
7. Total Value of Contract - Rs. 7858.11 Lacs.

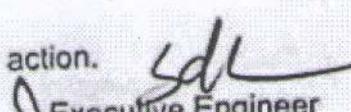

Executive Engineer
P.W.D., Raigarh Dn
Raigarh (C.G.)

Endt. No :- 158/T0272/SAC/2021-2022/Raigarh (C.G.)Date : 10/01/2022

Copy Forwarded to :-

1. Chief Engineer of the, Bilaspur Zone ,
2. Superintending Engineer of the, PWD Circle, Bilaspur
3. Sub Divisional Officer Public Work Department Sub Division Raigarh
Sub Divisional Officer Public Work Department Sub Division Dharamjaigarh
4. Sub Div. Raigarh, Sub Div. Dharmjaigarh
5. Technical Section, Divisional Office

For information & necessary action.


Executive Engineer
P.W.D., Raigarh Dn
Raigarh (C.G.)



कार्यालय कलेक्टर जिला- रायगढ़ (छ.ग.)

क्रमांक/एनएचएम/2022/4702
प्रति,

रायगढ़, दिनांक 24/09/2022

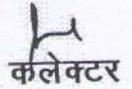
- 1- संचालक,
ओपीओजिन्दल फोर्टिस अस्पताल रायगढ़
- 2- संचालक,
ओपीओजिन्दल अस्पताल तमनार
-जिला- रायगढ़ (छत्तीसगढ़)

विषय:- माननीय राष्ट्रीय हरित अधिकरण में दायर वाद क्रमांक 104/2008 में पारित आदेश दिनांक 24.06.2021 व 20.11.2020 के संबंध में ।

—0—

उपरोक्त विषयान्तर्गत माननीय राष्ट्रीय हरित अधिकरण द्वारा रायगढ़ जिले के तमनार एवं घरघोड़ा तहसील के खदानों व पावर प्लांटों के आस-पास के गांवों (तहसील- घरघोड़ा- डेहरीडीह, टेण्डा नवापारा। तहसील- तमनार- मिलूपारा, खमरिया, कुंजेमुरा, डोंगामहुआ, गारे, डोलेसरा, सराईटोला, दक्षिण रेगांव, धौराभाठा, सारसमल, रोड़ोपाली एवं आस-पास के अन्य गांव) में खदानों के कारण होने वाले बिमारियों के जांच एवं उपचार करने संबंधी निर्देश दिए गए हैं।

अतः माननीय राष्ट्रीय हरित अधिकरण में दायर वाद क्रमांक 104/2008 में पारित आदेश दिनांक 24.06.2021 व 20.11.2020 के परिपालन में निर्देशित किया जाता है कि उपरोक्त ग्रामों के ग्रामीणों को आपके अस्पताल में निःशुल्क स्वास्थ्य जांच एवं चिकित्सा सुविधा उपलब्ध करना सुनिश्चित करें।


कलेक्टर

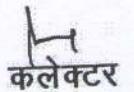
रायगढ़ (छ0ग0)

पृ. क्रमांक /एनएचएम/2022/4703 - 04

रायगढ़, दिनांक 24/9/2022

प्रतिलिपि:-

1. प्रमुख सचिव, छ.ग. शासन, स्वास्थ्य एवं परिवार कल्याण विभाग, मंत्रालय, अटल नगर, नया रायपुर।
2. संचालक, स्वास्थ्य सेवायें छत्तीसगढ़, इन्द्रावती भवन तृतीय तल अटल नगर, नया रायपुर ।


कलेक्टर

रायगढ़ (छ0ग0)



क्षेत्रीय कार्यालय
छ.ग. पर्यावरण संरक्षण मंडल
टी.व्ही.टॉवर रोड, रायगढ़ (छ.ग.)

Email ID: roraigarh.cecb@gmail.com

जावक क्र. 2569 /क्षे. का./प.सं.मं./2022
प्रति,

रायगढ़, दिनांक 03/03/22

मेसर्स जिंदल पॉवर लिमिटेड,
तमनार, जिला-रायगढ़ (छ.ग.)

मेसर्स टी.आर.एन. इनर्जी प्राईवेट लिमिटेड,
नवापारा टेण्डा, तहसील-घरघोड़ा
जिला-रायगढ़ (छ.ग.)

मेसर्स छत्तीसगढ़ स्टेट पॉवर जनरेशन कंपनी लिमि.
गारे पेलमा सेक्टर-02, कोल माईन,
जिला-रायगढ़ (छ.ग.)

मेसर्स हिण्डाल्को इण्डस्ट्रीज लिमिटेड,
गारे पेलमा IV/4, कोल माईन,
जिला-रायगढ़ (छ.ग.)

मेसर्स जिंदल स्टील एण्ड पॉवर लिमिटेड,
डोंगामहुआ, जिला-रायगढ़ (छ.ग.)

विषय :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 के संबंध में।
संदर्भ :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 में पारित आदेश
दिनांक 15.02.2022

— — 00 — —

उपरोक्त विषयांतर्गत लेख है कि माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 में पारित आदेश दिनांक 15.02.2022 के द्वारा आपके इकाई/संस्थान पर पर्यावरणीय मानको के उल्लंघन पर पर्यावरणीय क्षतिपूर्ति अधिरोपित की गई है। पारित आदेश की छायाप्रति संलग्न है। माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली द्वारा और अधिक पर्यावरणीय क्षतिपूर्ति अधिरोपित करने बाबत पारित आदेश में उल्लेख किया गया है। अधिरोपित की गई क्षतिपूर्ति के विरुद्ध क्यों ना और अधिक क्षतिपूर्ति राशि अधिरोपित ना की जाये तत्संबंध आप अपना पक्ष यदि रखना चाहे तो माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली के समक्ष रख सकते है। कृपया सूचनार्थ एवं अग्र कार्यवाही हेतु प्रेषित।

संलग्न :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली का आदेश दिनांक 15.02.2022.

o/c

क्षेत्रीय अधिकारी,
छ.ग. पर्यावरण संरक्षण मंडल,
जिला-रायगढ़ (छ.ग.)

पृ. जावक क्र. 2570 /क्षे. का./प.सं.मं./2022

रायगढ़, दिनांक 03/03/22

प्रतिलिपि :-

सदस्य सचिव, छत्तीसगढ़ पर्यावरण संरक्षण मण्डल, पर्यावास भवन, नार्थ ब्लॉक,
सेक्टर-19, नवा रायपुर, अटल नगर, जिला-रायपुर (छ.ग.) की ओर सूचनार्थ प्रेषित।

o/c

क्षेत्रीय अधिकारी,
छ.ग. पर्यावरण संरक्षण मंडल,
जिला-रायगढ़ (छ.ग.)



क्षेत्रीय कार्यालय
छ.ग. पर्यावरण संरक्षण मंडल
टी.व्ही.टॉवर रोड, रायगढ़ (छ.ग.)

Email ID: roraigarh.cecb@gmail.com

जावक क्र. 2751 /क्षे. का./प.सं.म./2022
प्रति,

रायगढ़, दिनांक 22/03/22

सूची संलग्न

विषय :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन प्रकरण क्रमांक 104/2018 के संबंध में।
संदर्भ :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 में पारित आदेश दिनांक 15.02.2022

— 00 —

उपरोक्त विषयांतर्गत लेख है कि माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन प्रकरण क्रमांक 104/2018 में पारित आदेश दिनांक 15.02.2022 के द्वारा सभी उद्योगों को फ्लाई ऐश समयावधि में निपटान किये जाने हेतु कार्य किये जाने, प्रदूषण शमन किये जाने के उपाय, डस्ट उत्सर्जन नियंत्रण हेतु दूषित जल के उपचारोपरांत जल छिड़काव में उपयोग किये जाने बाबत आदेशित किया गया है। उक्त आदेश के परिपेक्ष्य में आवश्यक प्रदूषण नियंत्रण व्यवस्था, फ्लाई ऐश का उचित निपटान, फ्युजिटिव डस्ट नियंत्रण हेतु उपचारित जल का जल छिड़काव इत्यादि आवश्यक व्यवस्था उद्योग परिसर में किया जाना सुनिश्चित करे

o/c


क्षेत्रीय अधिकारी,
छ.ग. पर्यावरण संरक्षण मंडल,
जिला-रायगढ़ (छ.ग.)

पृ. जावक क्र. 2752 /क्षे. का./प.सं.म./2022

रायगढ़, दिनांक 22/03/22

प्रतिलिपि :-

सदस्य सचिव, छत्तीसगढ़ पर्यावरण संरक्षण मण्डल, पर्यावास भवन, नार्थ ब्लॉक, सेक्टर-19, नवा रायपुर, अटल नगर, जिला-रायपुर (छ.ग.) की ओर सूचनार्थ प्रेषित।

o/c


क्षेत्रीय अधिकारी,
छ.ग. पर्यावरण संरक्षण मंडल,
जिला-रायगढ़ (छ.ग.)

कार्यालय कलेक्टर एवं जिला दण्डाधिकारी, रायगढ़, जिला-रायगढ़ (छ.ग.)

जावक क्र. 2777 / एनजीटी 104/2018/प.सं.मं./2022

रायगढ़, दिनांक 25/03/22

प्रति,

ANNEXURE-07

1. सर्व अनुविभागीय अधिकारी (रा.)
जिला-रायगढ़ (छ.ग.)
2. सर्व मुख्य कार्यपालन अधिकारी
जनपद पंचायत,
जिला-रायगढ़ (छ.ग.)

विषय :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 के संबंध में।
संदर्भ :- माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 में पारित आदेश दिनांक 15.02.2022.

— 00 —

उपरोक्त विषयांतर्गत लेख है कि माननीय राष्ट्रीय हरित अधिकरण नई दिल्ली प्रकरण क्रमांक 104/2018 में पारित आदेश दिनांक 15.02.2022 के अनुसार पैरा 20 के कंडिका क्रमांक 1 में उल्लेखित निर्देशानुसार रायगढ़ जिले में स्थापित एवं संचालित पॉवर प्लांटों से जनिता फलाई ऐश व उसका प्रबंधन/अपवहन से प्रभावित ग्रामीणों को क्षतिपूर्ति के संबंध में आवेदन दो माह के समयावधि में कलेक्टर जिला रायगढ़ को प्रस्तुत करने बाबत आदेशित किया गया है। तदसंबंध में ग्रामीणों से प्राप्त आवेदनों को माननीय एनजीटी, नई दिल्ली प्रिंसिपल बैंक के आदेश पर प्रकरण 104/2018 में गठित संयुक्त समिति को प्रस्तुत किया जाना है। अतः आपको निर्देशित किया जाता है कि आपके कार्यक्षेत्र अंतर्गत पंचायत स्तर पर मुनादी कराया जाकर पंचायत सचिव के माध्यम से फलाई ऐश के अपवहन/निपटान से प्रभावित ग्रामीणों के आवेदन 20 दिनों की समयावधि में संकलित कर क्षेत्रीय अधिकारी, क्षेत्रीय कार्यालय, छत्तीसगढ़ पर्यावरण संरक्षण मंडल, रायगढ़ को प्रेषित किया जाना सुनिश्चित करें। इसे अति आवश्यक समझा जावे एवं प्राथमिकता के आधार पर कार्यवाही सुनिश्चित करें।

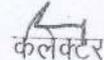

कलेक्टर

2 जिला-रायगढ़ (छ.ग.)

पृ. क्र. 2778 / एनजीटी 104/2018/प.सं.मं./2022

रायगढ़, दिनांक 25/03/22

प्रतिलिपि :- नोडल अधिकारी, एन.जी.टी. प्रकरण 104/2018, विठ्ठल मार्केट, पर्यावरण परिसर, ई-5 एरिया कॉलोनी, भोपाल - 462016 (म.प्र.) को सूचनार्थ प्रेषित।


कलेक्टर

2 जिला-रायगढ़ (छ.ग.)

2nd Meeting
Date-25th – 26thMay 2022

Minutes of the meeting of Joint Committee

OANo.104/2018ShivpalBhagat&Ors.Vs Union of India& ors.

1. Hon'ble NGT in OA No.-104/2018 Shivpal Bhagat vs. Union of India has accepted the recommendation made by oversight committee and has set few directions in its order dated 15.02.2022 to be looked after by the Joint Committee and submit the status of compliance as on 30.06.2022. In compliance of said direction from Hon'ble NGT the second meeting was convened during 25-26thMay 2022. Dr. Paras Ranjan Pujari, Senior Principal Scientist, NEERI, Nagpur could not attend the meeting due to his preoccupation in other project.

The meeting was attended by members as under-

1. Dr. R. P. Mishra Scientist 'D' Central Pollution Control Board, Bhopal- Nodal Officer
2. Dr. Bhardwaj Adiraju Scientist 'C' MoEF&CC, IRO Raipur- Member
3. Sh.P. K. Gupta, Dy. Collector, Raigarh- Member
4. Sh. S. K. Verma, Regional Officer, CECB, Raigarh- Member

The committee vide its letter dated 24.05.2022 has requested Deputy Director Mines, District Raigarh and Assistant Director, Mining Safety, Raigarh to attend the meeting for providing input/information about quantity of coal mined in District Raigarh and issues related with safety for disposal of fly ash on OB dump and back filling in mine void. Assistant Director, Mining Safety, Raigarh has not attended the meeting because of some personal issues.

The committee has elaborately discussed all the directions set by Hon'ble NGT in its order dated 15.02.2022 and decisions taken during 1st meeting in

Raigarh and also visited the site as required. Point wise observation of the committee on direction issued by Hon'ble NGT is an under-

- (a) Chhattisgarh Environment Conservation Board has issued Notices to StatePWD, Health Department and concerned units on date 03.03.2022 to deposit the assessed compensation.

The status of compensation deposit/ appeal filed is as under-

Sl. No	Name of industry/department	EC/Penalty/Fine amount in Rs	Action Taken	Status
01	Principal Secretary, Public Works Department, Chhattisgarh Government	1,00,00,000/-	Not Deposited	Not complied
02	Principal Secretary, State Health Department, Chhattisgarh Government	1,00,00,000/-	Not Deposited	Not Complied
03	M/s TRN Energy Private Limited, Nawapara, Raigarh	1,82,40,600/-	Appealed in Hon'ble Supreme Court	Annexure-01
04	M/s Mahavir Energy and Coal Benefication limited	1,42,90,000/-	Appealed in Hon'ble Supreme Court	Annexure-02
05	M/s Hindalco Industries Limited Coal Mine	2,09,40,000/-	Appealed in Hon'ble Supreme Court	Annexure-03
06	M/s Ambuja Cement Limited Coal Mine (GP IV/8)	75,90,000/-	Deposited	Complied
07	M/s Jindal Power Limited Tamnar	48,30,000/-	Deposited	Complied
08	M/s. Jindal Steel & Power Limited, Dongramau, Tamnar	11,70,000/-	Deposited	Complied
09	M/s Chhattisgarh State Power Generation Company Limited	75,90,000/-	Appealed in Hon'ble NGT	Annexure-04

(b) Status of remedial measures taken by CPCB, State PCB, State of Chhattisgarh is as under-

1. The representative of state PWD has attended the 1st meeting and submitted the progress of work-as
 - Construction of bitumen road from Jampali to Gharghoda - total length 19 km - work order issued on 02.08.2021- target completion date - November-2022.(Action by - State PWD- but no progress was observed in May 2022)
 - Construction of bitumen road from Raigarh to Dharmanjaygarh- total length - 56 km - work order issued on 10-01-2022, target completion time - 36 months i.e 10.01.2025 (Action by - State PWD- but no progress was observed in May 2022)
 - Construction of CC road - Panjipatra - Tamnar- Millupara-total length-23 km, under tendering process. (Action By- State PWD but no progress was observed in May 2022)

2. Representative of State Health Department also attended the meeting and submitted progress as-
 - Collector Raigarh has issued order on 24-03-2022 to M/s OP Jindal Fortis Hospital for providing free health checkup and treatment facility to villagers of Gharghoda, Dehrideeh, TendaNawapara, Millupara, Khamaria, Kunjmura, Dongamahua,Gare,Dolesara, Saritola, South Regaon, Dhaurabhata, Sarasmal, Rodopali villagers and other nearby villagers.

The committee has visited O.P. Jindal Fortis Hospital during 2nd meeting on May 2022 and found the hospital is operational with only 03 Doctors and limited paramedical staff.

As directed by Hon'ble NGT in para 16 of the order State PWD, Health Department and other entity have not submitted affidavit of compliance.
(Action by- State PWD and Health Department)

3. In compliance of MoEF&CC notification dated 31.12.2021, Chhattisgarh Environment Conservation Board has issued permission to various industries for disposal of fly-ash in low lying areas and stone queries. List of industries to whom permission has been granted are as under-

Sl. No.	Name of Industries	Location		Total Quantity of Ash in MT
		Khasra No.	Rakba in Hect.	
1.	M/s. Jindal Power Limited, Tamnar, District-Raigarh (C.G.)	1917	0.611	25,000
2.	M/s. Jindal Power Limited, Tamnar, District-Raigarh (C.G.)	516/3	0.769	40,000
3.	M/s. Jindal Power Limited, Tamnar, District-Raigarh (C.G.)	197 252-259 584, 427, 418 398-401, 406 393-397	4.271 5.155 4.03 9.913	2,00,000
4.	M/s. DB Power Limited, Vill.-BadaDarha, The-Dabhara, District-JangirChampa (C.G.)	388, 311, 300, 256	0.129,0.0121,0.068 0.220,0.242,0.121 0.101	2,30,000
5.	M/s. DB Power Limited, Vill.-BadaDarha, The-Dabhara, District-JangirChampa (C.G.)	466/2Ga	0.405	45,000
6.	M/s. JSW Ispat Special Products Limited, Vill.-Naharpali, The-Kharsia, District- Raigarh (C.G.)	515	0.194 0.052 0.405	1,40,000
7.	M/s. Raigarh Energy Generation Limited, Vill.-ChhotaBhandar, Post-Bade Bhandar, The-Pussore, District- Raigarh (C.G.)	1882 1882	0.466	30,000
8.	M/s. JSW Ispat Special Products Limited, Vill.-Naharpali, The-Kharsia, District- Raigarh (C.G.)	1882	0.466	15,000
9.	M/s. Singhal Enterprises Pvt. Ltd. Vill.-Taraimal, District-Raigarh (C.G.)	516/3	0.769	40,000

10.	M/s. DB Power Limited, Vill.- BadaDarha, The-Dabhara, District-JangirChampa (C.G.)	324, 301, 383, 320, 388, 126, 261, 324,	0.138,0.72,0.214 0.129,0.181,0.138 0.520,0.660,0.648 0.133,0.598,0.138 0.072,0.129,0.161 0.138,0.530,0.069 1.245	1,50,000
11.	M/s. R.K.M. Powergen Pvt. Ltd., Vill.- Uchhpinda, Tehsil- Dabhra, District- JanjgirChampa (C.G.)	448-449,461, 388, 311, 300, 309, 256, 300	0.023,0.137,0.158 0.129,0.012,0.068 0.220,0.242,0.200 0.129,0.101,0.303 0.750	1,50,000
Total			36.3116	10,65,000

The permissions issued by CECB has been critically discussed in committee and found that the permission issued are of general type i.e. ash filling in low lying area/in stowing of abandoned mines/queries. Whereas nature of utilization shall be specific as per MoEF&CC notification dated 31.12.2021. It seems very difficult to evaluate percent utilization of ash in various categories and implementation SOP for disposal of ash.

As per fly ash utilization report (April 2021-March 2022) submitted by Chhattisgarh Environment Conservation Board the overall scenario of ash utilization is as under.

Sl. No	Ash Detail	Quantity in MT	Percent Utilization
01	Ash Generation	1,29,31,334	NA
02	Supply to cement plant	2,79,988	2.0
03	Brick making plant	8,03,206	6.2
04	Land filling	14,45,439	11.17
05	Ash Dyke raising	9,68,943	7.5
06	Agriculture	00	Nil
07	Mine filling	53,28,926	41
08	Road making/other	10,69,821	8.27
09	Total Utilization	98,96,325	76.53
10	Unutilized fly ash	30,35,009	23.47

- Out of 41% utilization of mine filling, 35% only is disposed in coal mine by Jindal Power Limited and Jindal Steel and Power Limited. Rest 6% utilization could not be technically classified.
- In financial year 2021-22 total ash disposed on land is 1445439 MT which is not in consonance with permission issued i.e. for 10,65,000 MT. It indicates illegal /unscientific disposal of 380439 MT ash on land in the name of low lying area.

Chhattisgarh Environment Conservation Board may utilize technical aspects for calculation of fly ash quantity with respect to area and depth of proposed low lying area projects. Remote sensing study of the area may be useful for giving technical support to issue permission for disposal of fly ash in low lying area projects.

In Raigarh District disposal of fly-ash is in the major issue to be handled by SPCB as there is limited options for its utilization. The major source to be utilized for disposal of fly-ash are its mixing (25%) with OB dump, backfilling or stowing of mine (running or abandoned as the case may be). This has also been made mandatory in Notification dated 31.12.2021 (B-38).

As per district environmental plan of Raigarh, there are 10 operational coal mine which may use much quantity of fly-ash generated in District-Raigarh. Out of these 10 coal mines only 02 mines are utilizing fly-ash in backfilling process after obtaining EC and permission from DGMS. Ministry of Environmental, Forest and Climate Changes has issued guideline on 28th August, 2019 regarding exemption of requirement of any change in Environmental clearance of thermal power plants and coal mines along with the guidelines to be followed for such disposal.

In this context grant of permission from DGMS to coal mine seems to be more useful option for improving utilization of fly-ash in Raigarh District.(Action by - Collector Raigarh, Coal Mines & DGMS Jointly)

The committee vide its letter dated 24.05.2022 has requested Assistant Director, Mining Safety, Raigarh to attend the meeting on 26.05.2022 for providing input/information about issues related with safety for disposal of fly ash on OB dump and back filling in mine void. Assistant Director, Mining Safety, Raigarh has not attended the meeting because of some personal issues.

- With regard to carrying capacity study CPCB has provided details of experts/ Agencies to MS, Chhattisgarh Environment Conservation Board during meeting in CECB office on 21-04-2022. CECB is to invite proposal for carrying capacity study and issue work order accordingly within one month.

Chhattisgarh Environment Conservation Board Raipur has issued letter on 05.05.2022(**Annexure-05**) to Department of Civil Engineering, MANIT, Raipur , IIT Bombay, NEERI Nagpur and Environmental research laboratory, Automotive Research Association of India, Pune for providing proposals for the same within seven day. As no response was received from these organizations so further offer letter was given to IIT Kharagpur and IIT Raipur on 23.05.2022. (**Annexure-06**)

- Installation of CCTV cameras and CAAQMS in TPP and coal mines are still to be complied, CECB shall obtain time bound action plan with appropriate bank guarantee from Thermal Power Plants and coal mines in accordance with EC/Consent conditions which include requirement to comply with water and Air Act.

CCTV camera was found installed in all coal mine but CAAQMS has not been installed by mines being operated by SECL. It is reported by CECB that all thermal power plants of the Raigarh District have installed CAAQMS. CECB has assured to issue further notices to non-complying TPPs and Coal Mines.

- (c) Chhattisgarh Environment Conservation Board has issued letters on date 03.03.2022 to all concerned units for filing their response if any within one month.

PS PWD and PS Health Department of Chhattisgarh Government has not filed any response on direction of Hon'ble NGT, however M/s TRN Energy and M/s HINDALCO Coal Mine have made appeal in Hon'ble Supreme Court. Chhattisgarh State Power Generation Company Limited has filed review appeal before Hon'ble NGT.

- (d) Chhattisgarh Environment Conservation Board, Regional officer, Raigarh have been directed by the committee to collect the information required and submit the same in the next meeting of the committee.

As informed by RO, CECB M/s TRN Energy, M/s Mahaveer Energy and Coal Benification Ltd. and M/s HINDALCO Coal Mine have made appeal in Hon'ble Supreme Court.

- (e) Chhattisgarh Environment Conservation Board, Regional officer, Raigarh has issued notices to project proponent in question to ensure proper operation of sprinklers for suppression of fly ash during summer season. The committee has also directed RO, CECB, Raigarh, for conducting surprise inspections of the site and submit inspection report with photographs in the next meeting of the committee. (Action by- RO, CECB)

However in committee visit during May 2022 it was observed that SOP is not being followed in disposal of fly ash in low lying area and sprinkling system has also not been installed in fly ash handling area.

(f) Member Secretary, CECB has informed the committee that Board is in process of compilation of fly-ash data to ensure its scientific utilization in future. The compiled data will be submitted to committee within one month and the same will be utilized for preparation time bound plan for removal of fly-ash in Raigarh District.

The data submitted by CECB seems to be compilation of annual fly ash return submitted by individual industries. The quantity of fly ash disposed on land in Raigarh in the name of low lying area comes around 10,41,883 MT per year that's too in indiscriminate & unscientific manner without applying SOP and site criteria. This practice is being adopted since several years and developed many heaps of fly ash in the premises of industries, along road side, in forest areas and some agriculture field. It seems to be impossible to identify all locations as the concerned (Gram Panchayat) has not listed it during issuing concurrence for disposal of ash. This practice was restricted later on by declaring ban on issue of any permission by Gram Panchayat. In these circumstances preparation of action plan to remove fly ash in Raigarh District with a road map may require more time to make it executable.

(g) In compliance with Notifications dated 31.12.2021 issued by MoEF&CC, CECB has issued notice to all industries of Raigarh District for submitting audit report of fly-ash generation and management on or before 15.05.2022.

It was observed during 2nd meeting that industries of Raigarh are not serious on direction of Hon'ble NGT and only few industries has submitted the audit report within stipulated time. The quality of audit reports were not found technically sound and containing hypothetical figures to match 100 percent utilization. It was observed through reports that agreement made with fly ash

brick plants is not authentic as it do not contains details of brick plant like industries department registration number , brick manufacturing capacity, quantity of fly ash required and number of industries with whom the brick plant has made agreement.

In case of disposal of fly ash in low lying areas the industries has not submitted details of location where fly ash had been dumped and also not provided copy of permission for disposal of fly ash. It is understood with the process observed that responsibility of fly ash disposal in Raigarh district lies on transporters only. It is evident with the tender number 9900237765 of NTPC Lara that work of disposal of fly ash is outsourced with terms as *“ low lying areas or abandoned mines/ stone queries for filling of ash either from pond or silo shall be identified/explored by the agency within 100 km distance from Silo area of NTPC Lara at his own cost. Necessary statutory permissions/ clearances are to be obtained from regulatory authority/ Municipal Corporation / Gram panchyat / District Authority/ State administration/ State Pollution department (SPCB) etc by the agency at his own cost.*

The list of industries submitted the audit report is as under (Last date for submission of Report was 15.05.2022):-

Sl. No	Name of the industry	Status	Observation
01	M/s Jindal Power, Tamnar, Raigarh	Submitted	Satisfactory
02	M/s Jindal Steel & Power, Dongamahua, Raigarh	Submitted	Satisfactory
03	M/s Singhal Enterprises, Taraimal, Raigarh	Submitted	Not Satisfactory
04	M/s Singhal Energy Pvt. Ltd. Taraimal, Raigarh	Submitted	Not Satisfactory
05	M/s Shri ShyamIspat Pvt. Ltd, Raigarh	Submitted	Not Satisfactory
07	M/s B.S.Sponge Pvt. Ltd. Taraimal, Raigarh	Submitted	Satisfactory
08	M/s Raigarh Ispat& Power Ltd, Delari, Raigarh	Submitted	Not Satisfactory
09	M/s NavDurga Fuel Pvt. Ltd. Saraipali, Raigarh	Submitted	Not Satisfactory
10.	M/s Shri Rupanadham Steel Pvt. Ltd, Saraipali, Raigarh	Submitted	Not Satisfactory
11	M/s Anjani Steel Limited, Ujalpur, Raigarh	Submitted	Not Satisfactory

12.	NTPC Larra Super Thermal Power Station, Chhapora, Raigarh	Submitted	Not Satisfactory
13.	M/s Inds Synergy Limited, Kotmar, Raigarh	Submitted	Not Satisfactory
14.	M/s Raigarh Energy Generation Limited, Bade Bhandar, Raigarh	Submitted	Not satisfactory
15.	M/s JSPL, Patarapali, Raigarh	Submitted	Satisfactory
16.	M/s R. R. Energy, Garumaria, Raigarh	Submitted	Not Satisfactory
17.	M/s Sky Alloys Pvt. Ltd. Tememta, Raigarh	Submitted	Not Satisfactory
18.	M/s Nalwa Steel & Power, Taraimal, Raigarh	Submitted	Not Satisfactory
19.	M/s Maa Kali Alloys, Pali, Raigarh	Submitted	Not Satisfactory
20.	M/s MSP Sponge Iron Ltd. Manupali, Raigarh	Submitted	Not Satisfactory
21.	M/s MSP Steel & Power Ltd. Jamgaon, Raigarh	Submitted	Not Satisfactory
22.	M/s N.R. Ispat & Power pvt. Ltd. Gourmudi Raigarh	Submitted	Not Satisfactory
23.	M/s JSW Ispat Ltd. Naharpali, Raigarh	Not Submitted	
24.	M/s Rukmani Power & Steel Kunkuni, Raigarh	Not Submitted	
25.	M/s Rameshwar Steel & Power Ltd. Bade Gumda, Raigarh	Not Submitted	
26.	M/s Salasar Sponge & Power Gerwani, Raigarh	Not Submitted	
27.	M/s TRN Energy Pvt. Limited Bhengari, Raigarh	Not Submitted	
28.	M/s S K S Power generation Binjkot, Raigarh	Not Submitted	

Note- Not Satisfactory - The audit report submitted has no information about locations where fly ash have been disposed on land in the name of low lying area.

- (h) Concerned division of CPCB is in process of preparing guidelines for redetermination of compensation inter-alia with M.C. Mehta & anr vs. Union of India, Sterlite industries India Ltd. vs. Union of India. The guidelines will be provided to all PCBs,/PCCs shortly.
- (i) Collector district Raigarh has issued order to all concerned department on 25.03.2022 for providing information with respect to submission of the claims. As informed by district administration representative in the committee Collector

Raigarh has not received any claim from any victim of Raigarh District as on 19.04.2022.

In the 2nd meeting CECB has informed that about 931 claims have been received in Collector office and the same is being processed for verification and evaluation.

(j) The representative of district administration has ensured to cover all the aspect in District Environment Plan after finalization of time bound action plan by the committee. **(Action by- Collector, Raigarh)**

(k) The joint committee has discussed the issue of effective monitoring mechanism and suggest the following for further action by concerned on continuous basis.

❖ Chhattisgarh Environment Conservation Board, Regional Office, Raigarh shall make fly-ash management wing of appropriate members dedicated for field inspection and reporting. The competent authority of CECB shall provide required man power for the same urgently. **(Action by - MS-CECB)- Action taken report awaited.**

❖ The fly-ash management cell shall visit all Thermal Power Plants, Coal Mines and Low-lying disposal projects once in fortnight to ensure implementation of SOP in Low-lying area disposal projects, check illegal disposal of fly-ash in Raigarh District, covered transport of fly-ash and utilization of fly-ash in backfilling of coal mines and mixing with OB dump. **(Action by- CECB, RO, Raigarh)-Action taken report is placed at Annexure-7.**

❖ District administration shall develop portal/mobile app/Whatsapp link to facilitate public for providing information about illegal dumping of fly-

ash and submit their grievances about fly-ash management in Raigarh. Strict action within 24 hrs shall be ensured by district administration on complaints received on portal/mobile app/whatsapp with information to complaint about action taken.**(Action by- Collector Raigarh)-Action taken report awaited.**

- ❖ The Joint Committee will convene monthly meeting at Raigarh and Chhattisgarh Environment Conservation Board will submit monthly progress report for fly-ash management in the meeting.

It has been decided to conduct next meeting of the committee during 11-13th July 2022.

Dr.Bhardwaj Adiraju
Scientist 'C'
MoEF&CC, IRORaipur

Sh.P. K.Gupta,
Dy.Collector ,
Raigarh

Sh.S.K.Verma,
Regional Officer,
CECB,Raigarh

Dr.R.P.Mishra
Scientist 'D'
Central Pollution Control Board, Bhopal

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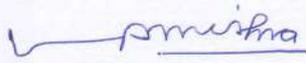
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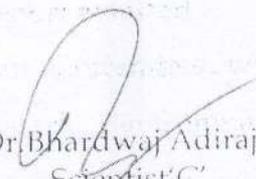

Sh.S.K.Verma,
Regional Officer,
CECB,Raigarh


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Raigarh

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CECB,Raigarh

Dr.R.P.Mishra
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Central Pollution Control Board, Bhopal

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**IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. _____ OF 2022**

(Against the impugned judgment and order dated 15.02.2022
passed in Original Application No. 104 of 2018 by the Hon'ble
National Green Tribunal Principal Bench, New Delhi)

IN THE MATTER OF:

S. No.	BETWEEN	POSITION OF PARTIES	
		IN THE NATIONAL GREEN TRIBUNAL	IN SUPREME COURT
1.	M/s TRN Energy Pvt. Ltd 18 Vasant Enclave, Rao Tula Ram Marg, New Delhi-110057 <i>Through its Managing Director</i>	Not a party	Appellant
Versus			
1.	Shivpal Bhagat S/o Ramchander Bhagat Village Sarasmal, Post libra Tehsil Tamnar, District Raigarh	Applicant No.1	Respondent No.1
2.	Pralhad Sidar S/o Abhelal Sidar Village Rehgaor Post and Tehsil Tamnar, District Raigarh, Chhattisgarh	Applicant No.2	Respondent No.2
3.	Hemsagar Paikra S/o Sahdev Ram, Village Sailhabhata, Post & Tehsil Tamnar, District Raigarh Chhattisgarh	Applicant No.3	Respondent No.3

- | | | | |
|-----|---|-----------------|---------------------|
| 4. | Sriram Gupta
S/o Mansha Ram Gupta
Village Khoroama
Panchayat Bhengari
Tehsil Gharghoca,
District Raigarh, Chhattisgarh | Applicant No.4 | Respondent
No.4 |
| 5. | Rinchin
D/o Bina
C/o Narayan Kalanga
Village Sakta, Post Milupara,
Tehsil Tamnar, District
Raigarh, Chhattisgarh | Applicant No.5 | Respondent
No.5 |
| 6. | Janaki Sidar
w/o Bharat Sidar
R/o Village Nagaramuda,
Post Dhaurabhata,
Tehsil Tamnar | Applicant No.6 | Respondent
No.6 |
| 7. | Union of India
Through its Secretary
Ministry of Environment,
Forest & Climate Change
Indira Paryavaran Bhavan
Jorbagh Road,
New Delhi-110003 | Respondent No.1 | Respondent
No.7 |
| 8. | Chhattisgarh Environment
Conservation Board
Through its Member Secretary,
Paryavas Bhavan,
North Block, Sector-19
Naya Raipur, Chhattisgarh,
492002 | Respondent No.2 | Respondent
No.8 |
| 9. | State of Chhattisgarh
Through its Principal
Secretary,
Forest Department,
Mantralaya, Naya Raipur | Respondent No.3 | Respondent
No.9 |
| 10. | District Collector, Raigarh
Chakradhar Nagar, | Respondent No.4 | Respondent
No.10 |

Raigarh District, Raigarh-
496001

11. Central Pollution Control Board Respondent No.5
Board Respondent No.11
Parivesh Bhawan, CBD-cum-
Office Complex,
East Arjun Nagar, Delhi-
110032

*All are contesting Respondents.
Thru Member Secretary.*

**CIVIL APPEAL UNDER SECTION 22 OF NATIONAL
GREEN TRIBUNAL ACT, 2010**

TO,
THE HON'BLE CHIEF JUSTICE OF INDIA AND
HIS COMPANION JUSTICE OF THE HN'BLE
SUPREME COURT OF INDIA

THE HUMBLE APPEAL OF THE
APPELLANT ABOVE
NAMED:-

MOST RESPECTFULLY SHEWETH:

1. The present statutory appeal is being filed under section 22 of the National Green Tribunal Act, 2010 against the judgment and order dated 15.02.2022 in Original Application No. 104/2018 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi [hereinafter **impugned order**] to the extent the Hon'ble Tribunal has accepted the report dated 7.12.2021 of the Oversight Committee on the alleged violations/breaches of environmental conditions for disposal of fly ash by the Appellant and has directed deposit of compensation assessed by the Oversight Committee with State Pollution Control Board as an interim compensation. The Hon'ble Tribunal has further directed that in the light of the order of

the tribunal dated 18.01.2022 in O.A. No. 164/2018, *Ashwani Kumar Dubey Vs. Union of India & Ors.* the compensation may be redetermined. A civil Appeal being C.A. No. 3856 of 2022- Singrauli Super Thermal Power Station Vs. Ashwani Kumar Dubey has been filed against the said order dated 18.01.2022 which is pending.

2. QUESTIONS OF LAW

The present Civil Appeal raises the following substantial questions of law of general/public importance for the consideration of this Hon'ble Court:

- I. Whether the principles of natural justice have been violated as the Appellant was not issued any notice and was not provided any hearing before the violations alleged in the report of the Oversight Committee against the Appellant and the Environment Compensation assessed against the Appellant was accepted by the Hon'ble tribunal?
- II. Whether the disposal of fly ash by the Appellant was as per the guidelines of the statutory bodies and in a scientific manner?
- III. Whether the Oversight Committee erred in observing that the Appellant has violated conditions of EC for construction of Ash Dykes and the Hon'ble Tribunal erred in accepting the same without hearing the Appellant?
- IV. Without prejudice to the above whether Environmental Compensation of Rs.1,82,40,600/- imposed by Hon'ble

NGT on the Appellant is grossly arbitrary based on incorrect assumptions and calculations and highly incommensurate?

V. Whether the assessment and levy of Environment Compensation of Rs. 1,82,40,600 on the Appellant for the period 1.04.2020 till 30.11.2021 is erroneous as both the Units of the Appellant were under shut down most of the time during the period for which penalty has been imposed by the committee?

VI. Whether the computation of compensation for damage to property of the individuals has no basis whatsoever and thus liable to be set aside?

VII. Whether the Hon'ble Tribunal has erred in holding the Appellant as polluter and liable to pay damages, without considering the actual status of fly ash utilisation activities undertaken by Appellant and the lack of avenues available to it to do so?

VIII. Whether the Report of the Oversight Committee was in line with the purpose for which it was constituted and whether the Tribunal was correct in placing reliance on such Report and imposing penal measures upon Appellant, retrospectively, without appreciating the issues and concerns being faced by it regarding fly ash utilisation?

IX. Whether the Impugned Order is bad in law inasmuch as the Hon'ble Tribunal failed to appreciate that there is a wide gap in fly ash consumption and fly ash generation, and consumption of fly ash by the user agencies is sine qua non

for achieving compliance of various Notifications issued by MoEF&CC for fly ash disposal?

X. Whether the Tribunal erred in imposing damages on the Appellant for fly ash disposal without considering the difficulties in achieving 100% fly ash utilisation which are having direct bearing on the same?

XI. Whether the Hon'ble tribunal erred in holding that the quantum of compensation assessed is inadequate and needs to be redetermined?

3. That the brief facts relating to the filing of the present Civil Appeal are as follows:-

(i). The Appellant is a 2x300 MW Thermal Power Plant located in village Bhengari, Nawapara (Tenda), Gharghoda, Raigarh. It is set up on a private land partly owned by it and partly taken on lease. The Plant started its commercial production in the year 2016 with average generation of fly ash of 4000 MT per day.

(ii). MoEF&CC in order to prevent the dumping and disposal of fly ash discharged from coal or lignite based thermal power plants on land and to improve its utilization, issued Notification S.O 763(E) under sections 3 and 5 of the Environment (Protection) Act, 1986. The MoEF&CC vide said notification issued various directions regarding use of fly ash in the manufacture of bricks and other construction

activities, utilisation of ash by coal or lignite based TPPs and specifications for use of ash based products. Besides, it also mandates use of fly ash in mines backfilling or stowing of mines within a distance of 50km.

A copy of the Notification S.O 763(E) dated 14.09.1999 issued by MoEF&CC is annexed herewith and marked as “Annexure A- 1” (Page No. 114 to 121).

- (iii). MoEF&CC brought amendment to above notification dated 14.09.1999, vide notification S.O. 979 (E) dated 27.08.2003 making stringent the directions for fly ash utilisation and disposal for coal or lignite based TPPs. MoEF&CC also made use of ash compulsory for the construction of roads etc. within a radius of 100 kms for TPPs, following guidelines issued by Indian Road Congress. It was also directed that soil shall not be used for reclamation or compaction of low lying areas within a radius of 100 kilometers of a coal or lignite based TPPs.

A copy of the Notification S.O 976(E) dated 27.08.2003 issued by MoEF&CC is annexed herewith and marked as “Annexure A- 2” (Page No. 122 to 128).

- (iv). MoEF&CC vide amendment notification S.O. 2804 (E) dated 03.11.2009 laid down steps for coal or lignite based TPPs to ensure utilization of ash generated by it namely sale of fly ash to user agencies

for manufacture of bricks, blocks or tiles, road construction agencies, agencies engaged in backfilling or stowing of mines. All coal or lignite based TPPs in operation were directed to achieve utilization of 100% fly ash generation within 5 years from the date of issue of this notification. The target fixed for new TPPs was 4 years from the date of commissioning.

A copy of the Notification S.O 2804(E) dated 03.11.2009 issued by MoEF&CC is annexed herewith and marked as “Annexure A- 3” (Page No. 129 to 139).

- (v). Environment Clearance was accorded to the Appellant's 2x300 MW coal based TPP at village Bhengari, Nawpara, Katangdih and Khokhrama in Gharghoda tehsil in Raigarh District in Chhattisgarh on 18.03.2011.

A copy of the Environment Clearance dated 18.03.2011 issued by MoEF&CC is annexed herewith and marked as “Annexure A- 4” (Page No. 140 to 147).

- (vi). The MoEF&CC vide amendment notification No. G.S.R. 02(E) dated 2.01.2014 in respect of use of washed/ blended or beneficiated coal with ash content not exceeding thirty four percent on quarterly average basis in TPPs.

A copy of the Notification No. G.S.R. 02(E) dated 2.01.2014 issued by MoEF&CC is annexed herewith and marked as "Annexure A- 5" (Page No. 148 to 153).

- (vii). The MoEF&CC vide its Notification S.O. 254(E) dated 25.01.2016 inter alia extended the time period to comply with the requirements of 100% utilization of fly ash to 31.12.2017.

A copy of the Notification S.O 254(E) dated 25.01.2016 issued by MoEF&CC is annexed herewith and marked as "Annexure A- 6" (Page No. 154 to 158).

- (viii). The Appellant sent a letter dated 31.05.2016 to CECB giving a proposed fly ash utilization plan namely utilization for low lying area reclamation, construction of ash based road, cement manufacturing, ash bricks etc. It was stated that presently the appellant is constructing ash dyke covering an area of approx. 45 acres. CECB was requested to accord consent to operate as the Plant was ready for commissioning.

A copy of the letter dated 31.05.2016 by the Appellant to CECB is annexed herewith and marked as "Annexure A- 7" (Page No. 159 to 160).

- (ix). On 10.06.2016 CECB issued the consent letter to the Appellant under section 25/26 of the Water

(Prevention and Control of Pollution) Act, 1974 [herein after **Water Act**] to one unit of the Appellant's 300MW TPP. In the special conditions it was provided that industry shall utilize 100% fly ash for beneficial uses like low lying area filling etc. It was also provided that industry shall ensure construction of ash dyke in 150 acres of land. Similarly consent under section 21 of the Air (Prevention and control of pollution) Act [hereinafter **Air Act**] was granted by CECB to the project of the Appellant on 10.06.2016 also containing the abovesaid conditions.

A copy of the consent letter dated 10.06.2016 under the Water Act is annexed herewith and marked as "**Annexure A- 8**" (Page No. 161 to 180).

A copy of the consent letter dated 10.06.2016 under the Air Act is annexed herewith and marked as "**Annexure A- 9**" (Page No. 181 to 187).

- (x). Similar consents under the Water Act and Air Act was granted by the CECB to the second unit of 300MW TPP of the Appellant on 23.12.2016.

A copy of the consent letter dated 23.12.2016 under the Water Act is annexed herewith and marked as "**Annexure A- 10**" (Page No. 188 to 205).

A copy of the consent letter dated 23.12.2016 under the Air Act is annexed herewith and marked as “Annexure A- 11” (Page No. 206 to 213).

- (xi). On 7.09.2017, CECB advised the Appellant to sign MoU with SECL for utilizing 5 lakh MT fly ash in mixing with Overburden and backfilling at Jampali SECL mines. The Appellant completed all the formalities as required by SECL. The Appellant sent reminders on 31.08.2018 and 20.12.2018 for signing of MoU.
- (xii). On 13.11.2017, CECB granted renewal of consent under the Water Act and separately under the Air Act with additional condition that the construction of ash dyke, in addition to existing ash dyke of 45 acres shall be completed within a period of 2 years as per action plan submitted vide letter dated 10.11.2017.

A copy of the renewed consent letter dated 13.11.2017 under the Water Act is annexed herewith and marked as “Annexure A- 12” (Page No. 213 to 214).

A copy of the renewed consent letter dated 13.11.2017 under the Air Act is annexed herewith and marked as “Annexure A- 13” (Page No. 215 to 216).

- (xiii). On 23.04.2018, CECB by separate letters issued renewal of consent under the Water Act and Air Act with additional condition that the construction of ash dyke, in addition to existing ash dyke of 45 acres shall be completed on or before 13.11.2019.

A copy of the renewed consent letter dated 23.04.2018 under the Water Act is annexed herewith and marked as "Annexure A- 14" (Page No. 217 to 218).

A copy of the renewed consent letter dated 23.04.2018 under the Air Act is annexed herewith and marked as "Annexure A- 15" (Page No. 219 to 220).

- (xiv). In 2018 Shivpal Bhagat and other individuals filed Original Application O.A. No. 104 of 2018 in regard to operation of large number of coal mines and coal washeries operating in District Raigarh in the State of Chhattisgarh allegedly contaminating air, water and land on the basis of the enquiry carried out by them where they had allegedly found adverse impact on health of inhabitants and had also suggested certain immediate measures.

A copy of the O.A No. 104 of 2018 filed by Respondent No.1 to 6 before NGT is annexed herewith and marked as "Annexure A-16" (Page No. 221 to 266)

- (xv). The Hon'ble Tribunal vide order dated 23.08.2018 in OA No. 104 of 2018 referred the said matter to the committee constituted in another matter being Dukalu Ram & Ors Vs UOI & Ors [(OA No. 314 of 2014 (CZ)- OA 200/2018)] and further directed the said committee to examine the comprehensive status of ambient air quality, land and water environment in the area, factors contributing to environmental degradation etc and prepare a report and submit the same within three months.

A copy of the order dated 23.08.2018 in OA NO. 104 of 2018 passed by NGT is annexed herewith and marked as "Annexure A-17" (Page No. 267 to 275).

- (xvi). On 1.02.2019, as per directions of Ministry of Road Transport and Highways, GoI to NHAI, the Appellant sent a letter to NHAI for utilization of fly ash in embankment filling of road / fly over construction. Appellant was pursuing with NHAI for signing of the MoU but the same was not signed.

A copy of the letter dated 1.02.2019 by appellant to NHAI is annexed herewith and marked as "Annexure A-18" (Page No. 276 to 276).

- (xvii). In March, 2019, CPCB issued guidelines for disposal/utilization of fly ash generated from coal fired TPPs for reclamation of low lying areas and stowing of abandoned mines/quarries.

A copy of the guidelines issued by CPCB in March, 2019 is annexed herewith and marked as "Annexure A-19" (Pg No. 277 to 302).

- (xviii). On 16.04.2019, the Appellant sent a letter to the Regional Office, CECB informing them the names of the agencies engaged by the Appellant for transportation of fly ash and filling in low lying area at village Newapara (Tenda). All required documents were attached namely the Gram Panchayat Prastav, Permission letter of landlord, Khasra (B-1) and Map of the land.
- (xix). On 28.06.2019 a report was furnished by the Committee so appointed by NGT.
- (xx). On 22.07.2019, the Hon'ble Tribunal found that the report furnished had not exhaustively addressed the issues which were required to be addressed as per the order of the Tribunal dated 23.08.2018. Accordingly, the Tribunal constituted a new committee and directed the said Committee to furnish an updated and exhaustive report after considering the aspects in para 10 of order dated 23.08.2018 in OA No. 104 of 2018. Also directed the said committee to visit the area and take into account the earlier reports on the subject and also consider the views of the inhabitants and furnish a report preferably within 2 months.

A copy of the order dated 22.07.2019 of Hon'ble NGT is annexed herewith and marked as "Annexure A-20" (Pg No. 303 to 307).

- (xxi). MoEF& CC vide its notification dated 28.08.2019 stipulated conditions which will replace the existing conditions in the EC of Thermal Power Plants which prohibited use of fly ash in abandoned mines/low lying areas/soil conditioner in agriculture. It inter alia provided that the guidelines prepared by CPCB for disposal of fly ash shall be followed.

Copy of the MoEF&CC notification dated 28.08.2019 is annexed herewith and marked as "Annexure A-21" (Pg No. 308 to 336).

- (xxii). A Preliminary Report dated 14.10.2019 was filed by CPCB on behalf of the committee appointed by NGT. The committee noted that utilization of fly ash in brick manufacturing is only 5%. The committee suggested short term and long term measures which inter alia included:

- a) Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling;
- b) no further disposal of fly ash in low lying areas by TPP/ CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOC for the same.
- c) Ministry of coal be directed to include necessary provisions to ensure the acceptance

of fly ash in coal mines for disposal through OB dump and back-filling as per fly ash notification of 2009.

A copy of the report 14.10.2019 of CPCB is annexed herewith and marked as "Annexure A-22" (Page No. 337 to 368).

- (xxiii). The Hon'ble Tribunal passed an order dated 12.02.2020 in O.A. No. 117/2014 directing TPPs to ensure scientific disposal of fly ash in accordance with notifications requiring 100% utilization of fly ash. CPCB was directed to compute environment compensation for individual TPPs with effect from cut off dated of 31.12.2017.

In compliance of the above order, the CPCB computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in the year 2018 and 2019. The Appellant was also included in that list for Environment compensation of Rs. 1,48,80,488.

A copy of the order dated 12.02.2020 passed by NGT in O.A. No. 117/2014 is annexed herewith and marked as "Annexure A-23" (Page No. 369 to 403).

- (xxiv). Central Electricity Authority vide letter dated 14.02.2020 enclosed the list of abandoned mines

identified by task force with request to visit and examine the feasibility of ash filling in nearby mine.

(xxv). On 26.02.2020 and 27.06.2020, the Appellant requested the Chairman cum Managing director, SECL and GM, SECL Raigarh for allocation of the mines and signing of the MoU for utilization of fly ash. But no response was received.

(xxvi). The Hon'ble Tribunal vide order dated 27.02.2020 held that the recommendations made by the Committee in its report dated 14.10.2019 need to be implemented by the concerned power plants and mines in the area. The Tribunal directed that the Committee already constituted in terms of order dated 22.07.2019 will act as an oversight committee for the implementation of the recommendations and the nodal agency for the purpose will be CPCB. Further the Tribunal directed the Committee to submit a status report on the issue as on 30.06.2020 by 15.07.2020 and also directed that the oversight committee may also issue appropriate directions to the project proponents for other remedial measures. The Tribunal also directed the Ministry of Coal and MoEF&CC to look into the report of the Expert Committee and to act upon the same for such further action as may be necessary.

A copy of the order dated 27.02.2020 passed by NGT in O.A. No. 104 of 2018 is annexed herewith and marked as "Annexure A-24" (Pg No. 404 to 410).

- (xxvii). On 23.06.2020, the Association of Power Producers, of which Appellant is also a member, filed a Civil Appeal diary No. 13336 of 2020 against the order dated 12.02.2020 passed by Hon'ble Tribunal. The appellant herein got itself impleaded as Appellant No. 16 in the said Civil Appeal. Similarly, many other TPPs have filed separate Civil Appeals against the said order dated 12.02.2020 passed by the Hon'ble NGT.

A copy of the Civil Appeal Diary No. 13336 of 2020 filed by Association of Power Producers is annexed herewith and marked as "Annexure A-25" (Pg No. 411 to 523)

- (xxviii). The oversight committee filed a status report dated 24.07.2020 based on the status of compliance as on 30.06.2020 submitted by the Regional Officer, CECB, Raigarh. The committee sought an extension of 2 months for field visit and meeting with concerned authorities about development, health facilities, road condition and drinking water supply. The CECB in its status report inter alia reported that during the visit it was found that two coal mines SECL, Gare Palma IV/1 and SECL, Gare Palma IV/2&3 are accepting fly ash for OB dump and back filling in their mines out of all the coal mines. So far as Appellant is concerned, it was observed that M/s TRN Energy Pvt. Limited is utilizing their fly ash

in brick making, ash dyke and Low land filling. During the visit Fly ash filling in Low lying area near Gharghoda bypass was observed. Leveling and Soil covering work has been completed in seven sites and at one site Leveling and Soil covering work was under progress.

A copy of the Oversight Committee report dated 24.07.2020 is annexed herewith and marked as "Annexure A-26" (Pg No. 524 to 533).

- (xxix). The applicant in O.A. No. 104 of 2018 filed written submissions dated 27.07.2020 on the report dated 24.07.2020 filed by CPCB praying that the short term recommendation should be implemented immediately.
- (xxx). On 8.09.2020, this Hon'ble Court issued notice in the Civil Appeal Diary No. 13336 of 2020 filed by Association of Power Producers and other connected matters and granted stay of recovery in pursuance of the impugned order dated 12.02.2020 of the Hon'ble Tribunal. These matters are pending.

A copy of the order dated 8.09.2020 passed by this Hon'ble Court in Civil Appeal Diary No. 13336 of 2020 is annexed herewith and marked as "Annexure A-27" (Pg No. 533 to 535).

- (xxxi). The Oversight Committee gave its report dated 17.11.2020 regarding the compliance status with

reference to the directions of the tribunal vide order dated 27.02.2020 after doing a field visit during 9-11th November 2020. The committee observed that during visit disposal of fly ash in low lying area was not observed. It was also reported that process of allocation to TPPs of 24 abandoned mines to be used for filling of fly ash is undertaken by CECB and is on advance stage. It was also observed that cooperation of SECL was not satisfactory as many applications of TPP of Tamnar and Gharghoda area are lying unattended by SECL. In the said report, the committee made recommendations that direction may be issued to CMD, SECL to expedite allotment of abandoned coal mines to be used for filling of fly ash generated from TPPs and complete it before 31.12.2020.

A copy of the Oversight Committee report dated 17.11.2020 is annexed herewith and marked as "Annexure A-28" (Pg No. 536 to 546).

- (xxxii). The Applicants in OA No. 104 of 2018 filed response dated 18.11.2020 to the report dated 17.11.2020 by way of written submissions praying inter alia that the report dated 17.11.2020 be rejected and oversight committee be directed to implement the recommendations in report dated 14.10.2019 and to visit the Gharghoda and Tamnar blocks with prior information to the applicants.

(xxxiii). The Hon'ble tribunal vide order dated 20.11.2020 directed the concerned authorities and the Committee to consider the suggestions of the applicants in written submissions dated 18.11.2020 inter alia to the effect that contaminated sites be seen, fly ash dumping in low lying areas be ensured and such dumping should not be in unscientific manner and legacy fly ash be remediated. Further, the Tribunal asked the Committee to furnish a further status report after four months.

A copy of the order dated 20.11.2020 passed by NGT in O.A. No. 104 of 2018 is annexed herewith and marked as "Annexure A-29" (Pg No. 547 to 562).

(xxxiv). As decided in the 3rd virtual meeting of oversight committee, the 3rd field visit of Gharghoda and Tamnar area in Raigarh was conducted from 15th-17th March, 2021 to address the suggestions given by the applicants by way of written submissions filed on 18.11.2020 and to assess progress on the ground in terms of compliance with short term recommendations. During the field visit contaminated sites and fly ash disposal sites shown by the applicant were listed and further course of action was decided/recommended by the committee which was recorded in the field visit report. So far as Appellant is concerned, certain comments were made with respect to ash dump behind its premises. CECB was directed to issue show cause notice for improper

disposal of fly ash and instruct for removal of fly ash within 7 days.

- (xxxv). CPCB on behalf of the oversight committee submitted a report dated 16.04.2021 giving status as on 15.03.2021 of the compliance of short term and long term measures. The committee inter alia recommended that CECB shall prepare list of areas where unscientific disposal of fly ash has occurred with specific remark of status about permission granted. It was also recommended that direction be issued to CMD, SECL, Bilaspur to expedite the disposal of fly ash in abandoned coal mines declared by Central Electricity Authority vide letter dated 14.02.2020.

The Oversight Committee report dated 16.04.2021 is annexed herewith and marked as "Annexure A-30" (Pg No. 563 to 575).

- (xxxvi). The applicant in O.A. No. 104 of 2018 filed written submissions dated 22.06.2021 to the report dated 16.04.2021.
- (xxxvii). The Hon'ble Tribunal in the light of further report of oversight committee dated 16.04.2021 and the suggestions made by the Applicants accepted the recommendations of the Committee vide order dated 24.06.2021 and directed the State Board to prepare list of the areas where unscientific disposal of fly ash has taken place and for remedial action in the matter

of providing health facilities, construction of necessary road, disposal of fly ash in abandoned coal mines and constitution of State Level Committee to look into scientific utilization of fly ash. It was observed that suggestions of the applicant need to be considered by the Oversight Committee. The tribunal directed the oversight committee to make assessment of compensation for the violations. Thereafter, the Hon'ble Tribunal directed that compliance status as on 30.11.2021 be furnished on or before 15.12.2021. A copy of the order dated 24.06.2021 passed by NGT in O.A. No. 104 of 2018 is annexed herewith and marked as "Annexure A-31" (Pg No. 576 to 609).

- (xxxviii). Status report of the Oversight Committee dated 7.12.2021 was filed by CPCB on 16.12.2021 before the Hon'ble NGT inter alia recommending that an Environmental Compensation of Rs. 1,82,40,600 be imposed on the Appellant herein for the period 1.04.2020 till 30.11.2021. A further environment compensation of Rs. 5,99,677.5 was recommended to be imposed on the Appellant for damage to the property of individuals.

A copy of the status report of Oversight Committee dated 07.12.2021 filed by CPCB on 16.12.2021 before NGT is annexed herewith and marked as "Annexure A-32" (Pg No. 610 to 674).

The details of ash generated and utilised during the period of 1.04.2020 till 30.11.2021 by the Appellant

is annexed herewith and marked as "Annexure A-33" (Pg No. 675 to 675).

- (xxxix). On 21.12.2021 SECL filed an Action Taken Report in reference to the order of Hon'ble Tribunal dated 24.06.2021 wherein it was inter alia stated that fly ash is being accepted as backfilling with OB at Gare Palma IV/2&3 OCM and void at Domnara OC mine (abandoned) has been allotted for fly ash filling.

A copy of the Action taken report filed by SECL is annexed herewith and marked as "Annexure A-34" (Pg No. 676 to 678).

- (xl). On 31.12.2021, MoEF&CC issued Notification SO 5481(E) laying down responsibilities of thermal power plants to dispose fly ash and bottom ash including utilization of legacy fly ash.

A copy of the Notification SO 5481(E) dated 31.12.2021 issued by MoEF&CC is annexed herewith and marked as "Annexure A- 35" (Page No. 679 to 689).

- (xli). Applicants in O.A. No. 104 of 2018 filed written submissions on 10.01.2022 to the report dated 16.12.2021 submitted by CPCB.
- (xlii). The Hon'ble NGT vide order impugned herein agreed with the findings of the Committee on violations and agreed with the recommendations for compliance except that quantum of compensation

assessed is not adequate. The Tribunal directed that the compensation assessed by the Committee be deposited as an interim compensation with the State PCB and directed notice be issued to the Appellant to show cause why higher compensation be not determined.

4. GROUNDS

The present Civil Appeal raises following grounds against the impugned judgment and order dated 15.02.2022 passed in O.A. No. 104 of 2018 by Hon'ble NGT, Principal Bench New Delhi which are taken without prejudice to one another: -

- A. Because the impugned order is passed in violation of the Principles of natural justice as the Hon'ble Tribunal accepted the report of the Oversight Committee alleging violations against the Appellant without issuing notice to the Appellant and without affording an opportunity to hear the Appellant on the findings rendered against it in the Oversight Committee report. The Environment compensation assessed against the Appellant by the Committee has been accepted as an interim compensation and a direction has been passed directing the Appellant to deposit the same with State PCB. It is submitted that the impugned order in para 16 read with direction 20(c) for the first time directs issuance of notice to the Appellant only for the purpose of giving hearing as to why higher compensation be not determined against the Appellant.

B. Because the Hon'ble Tribunal has failed to appreciate that disposal of fly ash for reclamation of low lying areas was very much permissible as per the MoEF&CC notification dated 28.08.2019 to be carried out following the guidelines prepared by CPCB. It was only in view of the recommendation made by the Committee appointed by Hon'ble Tribunal to disallow disposal of fly ash in low lying areas that an order was passed on 27.02.2020 by the Hon'ble Tribunal to implement the recommendations of the Committee. Accordingly, it was only on 11.05.2020 that the Oversight Committee in its 1st meeting decided to direct the Collector, Raigarh to issue instructions to all gram panchayat to stop issuing NOC for disposal of fly ash in low lying areas of Raigarh. The collector vide his letter dated 9.07.2020 had directed to the concerned officer to instruct the Gram Sarpanch for not issuing NOC for disposal of fly ash in low lying areas. It is submitted that the Appellant has not disposed fly ash in low lying areas after July 2020 and thus is not in violation of either the notification or any of the orders passed in this regard. In fact the Appellant had stopped ash utilization in low laying area from March 2020 onwards. The Oversight Committee in its report dated 16.04.2021 has also observed as follows:

"During visit of the Committee, disposal of fly ash in low lying area was observed but seems to be disposed before issue of order by the collector."

Thus, the ash dump found by the Committee which was attributed to the Appellant was the legacy fly ash dump.

- B. That the following observation made by the Oversight Committee in its report dated 7.12.2021 has been accepted by the Hon'ble Tribunal without affording any opportunity of hearing to the Appellant:

“TRN power has created an ash dump violating EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mudwall leading to fly ash flowing into adjoining field even situation to fly ash into neighbouring habitants. On field visit on 24- 25.08.2021 we have seen that by the side of State High way unscientific fly ash dump has been found , also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Another fly ash dump adjoining to Forest and nalah in personal land of some villager have been seen, due to cracks and land break /erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda .The top of Dump was at least 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoining field. To prevent the same no remedial measures has been taken by the PP. On current visit dated 25- 08-2021 we find that some of the fields have become useless, in agricultural field flowing of fly ash was found. On road side flow we could see the flowing of fly ash in heavy quantity. A pretty big area has been covered under flowing of fly ash from this Dump.”

- (i) It is submitted that the Appellant has been penalised for creating ash dump outside its ash dyke in the village of Nawapara Tenda without appreciating that the Appellant has utilised the generated fly ash in Village Nawapara (Tenda) as per the guidelines issued by statutory bodies i.e. CPCB, CECB. The Appellant took permission of the landowner,

Gram Panchayat and also prior intimation was given to Regional Office – CECB by letter dated 16.04.2019 as required under clauses 5.1.1 and 5.1.2 of the guidelines laid down by CPCB. Before the commencement of the work at said site, the Appellant had submitted all the related documents i.e. Khasra Naksha, B-1, NOC of Land Owner, Technical study of Land etc. with the Pollution Control Board for necessary information. The Pollution Control Board had visited the site from time to time during ash disposal for inspection to check whether the norms were followed by the Appellant. All these facts would have been brought to the notice of the Hon'ble Tribunal if notice was issued to the Appellant and hearing was provided to it.

- (ii) That after the ash disposal on the land, the Appellant had covered the disposed ash with 2-3 feet soil to prevent any erosion/ spillage of ash as per the clause 5.1.4 of the guidelines laid down by CPCB. After soil covering, compaction of the said site was also done by continuous dozing.
- (iii) So far as the observations pertaining to ash flowing to the adjoining fields is concerned, the same is not attributable to the Appellant and was beyond its control. It is submitted that during the year 2019, Raigarh region faced heavy rainfall due to which soil erosion had taken place and ash spillage was observed at some places. The same was corrected after rainy season by the Appellant to stop further spillage of ash. In 2019 after rainy season, the bund of the Ash Dyk was repaired and compaction with soil was done on fields. Again,

in the year 2021 there was leakage in bund due to rain and before the visit of committee in August, 2021, the bund was repaired but compaction with soil was not done due to wet muddy area. The same was corrected after rainy season.

Thus it cannot be said that there was unscientific disposal of ash or disposal in violation of guidelines by the Appellant.

- C. That the oversight Committee in its report dated 7.12.2021 has also reported that *“by the side of State Highway unscientific fly ash dump has been found. Another fly ash dump adjoining to Forest and nalah in personal land of some villager have been seen, due to cracks and land break/erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree.*

It is submitted that the coordinates of the ash disposal site were 10 feet below the ground level i.e. from NE Direction, but as per the committee report the inspection was done from SW Direction i.e. from Low lying area. Therefore, the difference in elevation of the said site is due to difference in direction of inspection i.e. from NE and SW. Several times the inspections of said sites were carried out by the State Pollution Control Board team and they never raised any objection on the height of the filled area and on the methodology of dumping in low lying areas. Therefore, the disposal of the Ash was done as per the guidelines of statutory bodies in a scientific manner.

- D. That the Oversight Committee report dated 7.12.2021 further observes as follows:

“Although they brought some papers and made attempt to show that they have not violated the Environmental conditions. but could not produce permission / consent of State Pollution Control Board. The thermal power plant has also submitted copy of study report conducted in 2018 by ISM Dhanbad which recommends about no metal contamination in ground water due to leaching from fly ash disposed in low lying area.”

It is submitted that the CECB while granting consent under the Water (Prevention and control of pollution) Act and Air (Prevention and control of pollution) Act had granted permission to the Appellant to dispose fly ash by filling of low lying areas. It is submitted that the Committee did not provide time to the Appellant to provide relevant documents and thus these consents issued by CECB could not be produced before the Committee. It is submitted that State pollution Board does not issue any permission for filling of fly ash in low lying areas. The Appellant has utilized ash with proper permissions of Land Owner, Gram Panchayat and with prior intimation to Regional Office – Chhattisgarh Environmental Conservation Board. Before the commencement of the work at said sites, the Appellant had submitted all the related documents i.e. Khasra Naksha, B-1, NOC of Land Owner, technical study of land etc. to State Pollution Control Board for necessary information. Officials of State Pollution Control Board had visited from time to time at the site during ash disposal for inspection.

- E. That the Oversight Committee has further observed in its report dated 7.12.2021 as follows:

“Ash Dyke belonging to TRN Energy Ltd, on visit we find that at one place wall of the dyke is severely damaged and we apprehended that accident may took place, Nodal Officer informed the facts for repairs forthwith so as to avoid any unfortunate event. Underground water discharge from dyke is there and the discharged water is flowing to agriculture field. Water samples have been collected. Fly ash flying over the ash dyke has also been seen. Even some of the persons were seen roaming over the dried fly ash lying in the dyke. It appears that there is no recycle water system operating. Construction does not appear to be scientific.”

It is submitted that the South East Central Railway has constructed a Railway line adjoining Ash Dyke of the Appellant for evacuation of coal from Gharghoda regions. The elevation of Railway Track is 10-12 feet below the ground level, therefore to prevent the submergence of Railway track, the Railway has constructed a syphon surrounding the Appellant's Ash Dyke. For the construction of syphon, railway has dumped excavated soil in the surrounding of bunds of Appellant's ash Dyke. It is submitted that the rain cuts, observed by the committee were on the dumped soil and not on the main bund of Appellant's Ash Dyke. However, to further prevent any erosion of the main bund, the Appellant repairs the same from time to time after rainy season. It is submitted that the Appellant has constructed water recovery system in new ash dyke for recovery of water from dyke. During the summer seasons and shut down of units, it is observed that fly ash is flying from dyke. The Appellant is continuously doing water sprinkling on the said area and also covers such area with soil for control of emission of ash from dyke.

F. That the Oversight Committee has further observed in its report dated 7.12.2021 as follows:

“They also stated that as per original permission accorded by MoEF&CC they have constructed this second Ash dyke and for perusal shown the permission letter. In this permission letter there is no sanction of more than one ash dyke even as per deliberation it could come to know that first ash dyke is inside the Plant and this ash dyke has been made outside the plant. Whether ash dyke should have been built in the vicinity of habitants, to reply this question they could not able to show any legal authority or any permission. So far as water discharge is concerned they stated that this water discharge belongs to Railway.”

It is submitted that the Appellant was issued Environment clearance for construction of Ash Dyke in 150 Acres on 18.03.2011 and the same was also part of the conditions for grant of consent under the Water and Air Act. However, due to the constraints of Land Acquisition, the Appellant had constructed Ash Dyke in a phased manner i.e. Phase-1 (in 45 Acres) and Phase-2 (in 105 Acres). Before construction of Ash Dyke in phased manner, the Appellant was granted permission through Consent to Operate from CECB Raipur. The letters pertaining to renewal of consent under the Water Act and Air Act provides for construction of ash dyke in addition to the existing ash dyke of 45 acres. Thus the Appellant has not violated any condition of EC for construction of ash dyke. It is further submitted that when Ash dyke was built there was no human habitation near it.

G. Because the Oversight Committee erred in recommending environment compensation of Rs. 1,82,40,600 on the Appellant for the period 1.04.2020 till 30.11.2021. It is submitted that both the Units of the Appellant were under shut down most of the time during the period for which penalty has been imposed by the committee. During the said period, only one Unit was under operation and that too was on partial loads. The ash generated was well utilised in various avenues. Thus no penalty can be imposed on the fly ash which was utilized as per the prescribed norms.

H. That so far as the compensation of Rs. 5,99,677.5 for property damage of individuals is concerned, the Oversight Committee has not determined the actual crop damage but has computed compensation on the basis of tentative loss to crop. The Committee has taken a figure of production of 37 quintals per hectare and has computed damage by considering rate of crop @ Rs. 2500 per quintal. Thus the computation is based on assumed production figure as against the actual crop production by the individuals during the concerned period which was affected due to fly ash. It is submitted that no intimation of the hearing by Oversight Committee was given to the appellant and hence, the Appellant could not attend the hearing with respect to the compensation for property damage.

I. That the Oversight Committee has recommended as follows as a Short term measure:

We recommend that M/s TRN Energy Private Limited and M/s Mahaveer Energy & Coal Benefication Limited shall remove the fly ash dump as seen by the committee during their field visit within 4 months else

those dumps shall be removed on the cost of those companies, by State PCB and removed material shall be given to the concerned company for proper disposal as per law.

It is submitted that that the Notification S.O. 5481(E) of MoEF&CC dated 31.12.2021 provides as follows in Para A(5):

“Provided further that the legacy ash utilisation shall not be required where ash pond or dyke has stabilised and the reclamation has taken place with greenbelt or plantation and the concerned State Pollution Control Board shall certify in this regard. Stabilisation and reclamation of an ash pond or dyke including certification by the Central Pollution Control Board (CPCB) or State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) shall be carried out within a year from the date of publication of this notification. The ash remaining in all other ash ponds or dykes shall be utilised in progressive manner as per the above mentioned timelines”

It is submitted that the soil covering over the dumped ash has already been done by the Appellant and it will develop a thick green belt in the said site in the coming monsoon season.

- J. That the Regional Officer, CECB had submitted a compliance status of the Hon'ble NGT's order dated 27.02.2020 wherein he had reported as follows with respect to ash dumping in low lying areas:

“M/s TRN Energy Pvt. Limited, Village Bhangari, Dist -Raigarh is utilizing their fly ash in brick making, ash dyke and low land filling. During the visit fly ash filling in low lying area near Ghargoda bypass was observed. Levelling and soil covering work has been completed in seven sites and at one

site Levelling and soil covering work was under progress.”

It is clear that there was no violation found by the Regional Officer, CECB during the site visit in Feb, 2020.

- K. Because the Hon'ble Tribunal did not consider the larger issue and penalised the TPPs including the Appellant. It is submitted that the larger issue was that there are not enough avenues made available by Government with the TPPs for utilization of fly ash which leads to disposal of ash in low lying areas and in some cases the accidental spillage and erosion. The Committee appointed by the NGT in its report dated 14.10.2019 had also observed as follows:

“b. Fly ash notification of 2009 requires that use of minimum 25% of fly ash in OB dump (external or backfilling area). In reality, this is observed only in GPIV/1 and GPIV/2&3. Other mines are as yet not accepting fly ash from local TPPs.

.....

c. In the absence of utilization in mines as an option, and given limited options for utilization in cement and road making, a large fraction of the fly ash generated by TPPs/CPPs in Tamnar-Gharghoda region (at least 27%) is being dumped in so-called low lying areas. This is being done with the permission of the concerned landowners and Gram Panchayats.”

In view of the above observation, the Committee recommended as follows:

“Short-term measures

- a. *Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back – filling. Action by respective coal mine companies)*

Long term measures

...

- a) *Ministry of Coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and back-filling as per fly ash notification of 2009.*”

Thus it is clear that only two coal mines were accepting fly ash for OB dump and back-filling in their mines. A further report of the Oversight Committee dated 17.11.2020 reported that the co-operation of SECL is not satisfactory as many applications of TPP of Tanmar & Gharghoda area are lying unattended by SECL. A direction was sought from Hon'ble NGT to CMD, SECL, Bilaspur to expedite allotment of abandoned coal mines in consultation with CECB and complete it before 31st December 2020. In the subsequent report dated 16.04.2021, the Oversight Committee observed that “*no progress reported by CMD, SECL, Bilaspur in spite of several communications from CECB, CPCB and collector, Raigarh*”

- L. That the report of the Oversight Committee dated 17.11.2020 stated that 24 abandoned OC mines have been identified in Chhattisgarh which can be used for filling of fly ash and the process of allocation of these mines to TPP of Chhattisgarh is undertaken by CECB and is at advance stage. It was also reported that Member Secretary, CECB has informed about considering mine wise allocation of abandoned coal mines as declared by CEA vide its letter dated 14.02.2020.

- M. That the Oversight Committee in the field visit report dated 17.03.2021 acknowledged that the Appellant has limited area for fly ash disposal and thus recommended that OCP mine at Domnara may be preferably made available to the Appellant for disposal of fly ash. The Oversight Committee in its Final compliance review status as on 30.11.2021 reported as follows:

“CECB vide its letter number 318 dated 10.05.2021 has made allotment of fly ash disposal in void of Domnara OC mine (Abandoned) of Raigarh but no progress observed on ground, Only one abandoned mine is there for filling of fly ash but the same has been allotted to five companies situated in different area and with different quantities. This allotment has been done in complete violation of “GUIDELINES OF CIL OFFERING MINES VOIDS FOR FLY ASH DISPOSAL The guidelines is a complete code and following that only mines was required to be allotted and compliance should have been made. CECB should have asked Coal India Ltd to follow their own guidelines from inception of allotment of Mine void till disposal of fly ash and after closure of the site till reclamation.”

In this the quantity allotted to the Appellant is 10445.34 m³ which is wholly inadequate. The Appellant has established a 600 MW Coal based Thermal Power Plant. The Coal consumption is around 10,000 MT per day and generation of Ash is approx. 4500 MT per day, therefore 100% utilization of such a huge quantity of ash, being generated on daily basis, is not possible due to lack of the avenues in nearby vicinity. Domnara Mine was offered by SECL, whose capacity for backfilling is only 10445.34 CuM. Considering the high rate

of ash generation, the available capacity of Domnara Mine will be exhausted within 02-03 days only and this will not lead to 100% ash utilization. South Eastern Coalfield Limited and other private entities are operating Coal mines in Raigarh region, but they are not cooperating with TPPs for utilisation of Ash. The utilization of fly ash in mines is only the long-term & permanent solution.

- N. Without prejudice to this, it is submitted that if at all the Appellant can be held liable, the alleged Environmental Compensation amount of Rs.1,82,40,600/- imposed by the Oversight Committee and confirmed by the NGT as interim compensation is grossly arbitrary, based on incorrect assumptions and calculations and highly incommensurate.
- O. That the Oversight Committee has computed the amount of Environment Compensation on the basis of formula approved by Hon'ble Tribunal in its order dated 12.02.2020 in OA No.117/2014 for coal/lignite based thermal power plants for non-utilization of 100% fly ash in year 2018 (2018-2019) and 2019 (2019-2020) as per the Notifications issued by the MoEF&CC under the EPA, 1986 and the Rules. The said order is under challenge before this Hon'ble Court in various Civil Appeals and an order of stay on recovery has been passed which is operative.
- P. That the Oversight Committee has assumed the initial date of compensation as 01.04.2020 and has accordingly calculated the number of days of alleged violation as 608 days for the period of 01.04.2020 to 30.11.2021 which is not based on any

evidence whatsoever. The earlier report filed by CPCB on 16.04.2021 before the Hon'ble Tribunal shows that committee held meetings during 15th – 17th march 2021 and also conducted field visits for the first time in respect of the Appellant. Hence if at all the initial date for alleged violation could only be from 17.03.2021. Moreover both the Units of the Appellant were under shut down most of the time during the period for which penalty has been imposed by the committee.

- Q. Because the Hon'ble Tribunal has based all its findings on the Report dated 7.12.2021 submitted by the Oversight Committee constituted by the Hon'ble Tribunal. It is noteworthy that the purpose of the constitution of the Committee was to look into the factors surrounding the issue of the Ash Disposal and to consider the reasons for non-compliance, if any, and prepare a holistic report. However, the said Committee failed to discharge its duties and defeated the purpose for which it was constituted inasmuch as the Report which it submitted before the Hon'ble Tribunal is plagued with fallacies and loopholes, and overlooks the concerns raised by the TPPs.
- R. That neither the Oversight Committee nor the Hon'ble Tribunal has appreciated the grave mismatch between Ash Generation and Ash Utilisation owing to exponential increase in capacity addition in the 12th Five Year plan. The total installed capacity of the TPPs has grown from 756 MW at the time of independence, to 54,154 MW in the March-1997 (which was just before the first notification issued by MoEF&CC dated 14.09.1999) and further to 1,92,972 MW

in December 2017, meaning thereby that within a 10-year period between 2007 to 2017, owing to the need of being power sufficient, a total capacity of 121 GW on new Coal based TPPs was added and since the generation of electricity through Coal based TPPs has been extensively increased, the fly-ash generated being the by-product of the same has also increased as both the things go hand in hand. The said capacity addition created a large surplus in Ash Generation. However, the user industries which are obligated as per the Fly Ash Notification 2016 to use the Fly Ash, did not grow at the same pace. Therefore, the Hon'ble Tribunal failed to appreciate that the inherent mismatch between demand and supply of Fly Ash, in no manner is attributable to TPPs and that if at all there is unscientific ash dumping, the same is largely due to lack in demand of Fly Ash and limited avenues available for utilization of fly ash. Thus, the issue of scientific ash utilisation is dependent on existence and creation of suitable ecosystem by the various stakeholders, including the statutory bodies. Therefore, to penalise and blame only the TPPs for alleged non-compliance without considering the issue in totality will be a travesty of justice, especially when individual facts and circumstances of each TPP have not been analysed and appreciated threadbare.

- S. That the obligation as per the Fly Ash Notification, 2016 with respect to the TPPs is limited to providing Fly Ash to other user industries. However, the responsibility for utilisation of fly ash, falls upon the construction agencies (user industries) and that the various instrumentalities of the State and Central Government are, inter-alia, responsible to create conducive

regulatory environment to enable 100% utilisation. It is submitted that the Impugned Order proceeds on a completely erroneous premise that it was only the responsibility of TPPs to utilise fly ash, which are saddled with high-ash content coal variety, beyond 34% by the coal companies. This approach runs completely contrary to the purport and import of the Fly Ash Notification 2016. In fact, no liability has been placed on the user industry on their lack of cooperation and offtake responsibility.

- T. That it is noteworthy that the Fly Ash Notification 2016 casts an obligation upon various Central and State Instrumentalities/ Agencies to ensure 100% Fly Ash utilisation by prescribing usage of the same in various construction activities. Therefore, the non-compliance or partial compliance of the fly ash disposal norms/guidelines is mainly attributable to these agencies not implementing the said Notification in letter and in spirit. However, the Hon'ble Tribunal instead of taking action against such agencies has saddled the entire responsibility upon TPPs, who under the said Notification are obligated to make available such Fly Ash generated for utilization.
- U. Because the Hon'ble tribunal erred in holding that the quantum of compensation assessed is inadequate and needs to be redetermined. Without prejudice to the submission that the compensation assessed is arbitrary and erroneous, it is submitted that the same cannot be said to be inadequate and there is no case to consider enhancement of the same.

PRAYERS

5. In view of the aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:-

- (a) Admit and allow the present Appeal by setting aside the impugned judgment and Order dated 15.02.2022 passed in O.A. No. 104 of 2018 by the Hon'ble National Green Tribunal Principal Bench, New Delhi;
- (b) Pass such other order or further order(s) as may be deemed fit and proper in the facts and circumstances of the present case.

**AND FOR THIS ACT OF KINDNESS THE
APPELLANT BANK AS IN DUTY BOUND
SHALL FOREVER PRAY**

Drawn & Filed by:

Place: New Delhi
Date: 23.05.2022

(Parekh & Co.)
Advocate for the Appellant
30, School Lane
Bengali Market
New Delhi-110 001

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No. _____ OF 2022**

BETWEEN :

M/s TRN Energy Pvt. Ltd

...Appellant

AND

Shivpal Bhagat & Ors.

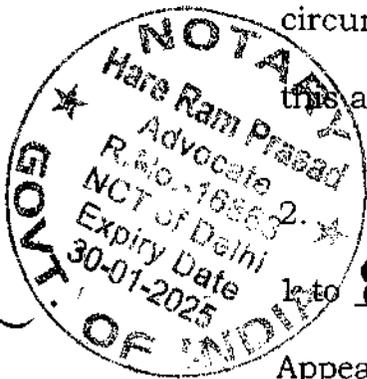
...Respondents

AFFIDAVIT

I, Kamal Kant, S/o Sh. Mahabir Prasad Agarwal, aged about 62 years, registered office at 18, Vasant Enclave, Rao Tula Ram Marg, New Delhi-110057, presently at New Delhi, do hereby solemnly affirm and state as under:-

1. That I am the authorised representative of the Appellant in the above matter and am conversant with the facts and circumstances of the case. As such, I am competent to swear the affidavit.

That I have read and understood the contents of para Nos. 1 to 8 on page Nos. 70 to 111 of the accompanying Civil Appeal filed against the Judgment and Order dated 15.02.2022 passed by the Hon'ble National Green Tribunal Principal Bench at New Delhi in Original Application No. 104 of 2018 and state that the facts stated in the appeal are true to my knowledge and belief. Parties to the present Appeal are the same as they were before the Court below.



Hare



3. That I have read the accompanying Synopsis, List of Dates and Events from page B to V and accompanying applications and say that what is stated therein is true to my knowledge and belief.

4. The Annexures filed along with the Appeal are true copies of their respective originals and formed part of the record of the case in the courts below.

5. That the Appellant has not filed any other Petition or Appeal before this Hon'ble Court against the impugned judgment and order.

6. No facts which were not pleaded before the Courts below have been pleaded in the Appeal.

[Handwritten signature]


DEPONENT

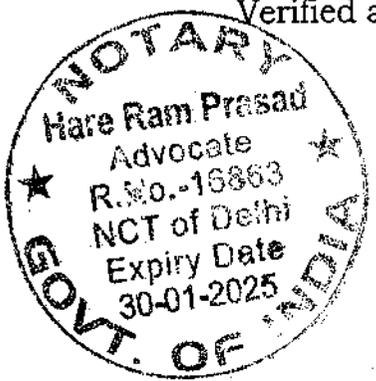
VERIFICATION

I, the deponent abovenamed, do hereby verify that the contents of paras 1 to 6 of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at Delhi on this the 13th day of May, 2022.

[Handwritten signature]


DEPONENT



ATTESTED
[Handwritten signature]
NOTARY PUBLIC
NCT OF DELHI
17 MAY 2022

ITEM NO.11

COURT NO.12

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL DIARY NO(S). 14125/2022

(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 15-02-2022
IN OA NO. 104/2018 PASSED BY THE NATIONAL GREEN TRIBUNAL)

M/S MAHAVIR ENERGY AND COAL BENEFICATION LTD. PETITIONER(S)

VERSUS

SHIVPAL BHAGAT & ORS. RESPONDENT(S)

(IA No.79135/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.79133/2022-STAY APPLICATION and IA
No.79132/2022-PERMISSION TO FILE APPEAL)

WITH

C.A. No. 3856/2022 (XVII)

(IA No.72487/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.72484/2022-STAY APPLICATION)

C.A. No. 4529/2022 (XVII)

(IA No.84272/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.84271/2022-EX-PARTE STAY and IA No.82989/2022-
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 4525/2022 (XVII)

(IA No.83620/2022-ADDITION / DELETION / MODIFICATION PARTIES and
IA No.83617/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
and IA No.83616/2022-STAY APPLICATION)

Diary No(s). 16512/2022 (XVII)

(IA No.82417/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.82416/2022-STAY APPLICATION and IA
No.82415/2022-PERMISSION TO FILE APPEAL)

C.A. No. 4581/2022 (XVII)

(IA No.85903/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.85902/2022-STAY APPLICATION and IA
No.85904/2022-DELETING THE NAME OF PETITIONER/RESPONDENT)

Signature Not Verified

 Digitally signed by
POOJA SHARMA
Date: 2022.07.13
18:02:16 IST
Reason: I am the author of this
document.

Diary No(s). 15631/2022 (XVII)

(IA No.85462/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.85461/2022-EX-PARTE STAY and IA No.85460/2022-
PERMISSION TO FILE APPEAL and IA No.85268/2022-PERMISSION TO FILE
ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 11-07-2022 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s) Mr. Sanjay Jain, Ld. ASG
Mr. Adarsh Tripathi, Adv.
Mr. Ajitesh Garg, Adv.
Mr. Vikram S. Baid, Adv.
Ms. Alka Sinha, Adv.
Mr. Yuvraj Sharma, Adv.
Ms. Harshita Sukhija, Adv.
Mr. Anuvrat Sharma, AOR

Mr. Guru Krishna Kumar, Sr. Adv.
Mr. Sumit Goel, Adv.
Mr. Aditya Sharma, Adv.
Mr. Manu Bajaj, Adv.
M/S. Parekh & Co., AOR

Mr. K. V. Vishwanathan, Adv.
Mr. Ashish Prasad, Adv.
Ms. Mukta Dutta, Adv.
Mr. Pruthvi Dhinoja, Adv.
Mr. Rahul B., Adv.
Ms. Aditi Raghuvanshi, Adv.
Mr. Rahul Tyagi, Adv.
Mr. Amartya A. Sharan, Adv.
Mr. Chanakya Dwivedi, Adv.
Mr. Mahfooz Ahsan Nazki, AOR

Mr. Tushar Mehta, Ld. SG
Mr. Shailesh Madiyal, AOR
Mr. Sudhanshu Prakash, Adv.
Mr. Vinayaka S. Pandit, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Diary Nos. 14125/2022, 16512/2022 and 15631/2022 arising out of the order of the Tribunal dated 15.02.2022 in O.A. No. 104/2018 be listed together.

C.A. Nos. 3856/2022, 4529/2022, 4525/2022 and 4581/2022 arising out of the order of the Tribunal dated 18.01.2022 in O.A.

No. 164/2018 be detagged and be listed separately as separate items.

List on 26.07.2022.

(POOJA SHARMA)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)

ITEM NO.5

COURT NO.12

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL Diary No(s). 11506/2022

(Arising out of impugned final judgment and order dated 15-02-2022 in OA No. 104/2018 passed by the National Green Tribunal)

HINDALCO INDUSTRIES LIMITED

Petitioner(s)

VERSUS

SHIVPAL BHAGAT & ORS.

Respondent(s)

(IA No.64487/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.64486/2022-EX-PARTE STAY and IA No.64485/2022-PERMISSION TO FILE APPEAL and IA No.60974/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 13-05-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s) Mr. Ashish Prasad, adv.
Ms. Mukta Dutta, Adv.
Mr. Abhay Chattopadhyay, Adv.
Mr. Sparsh Prasad, Adv.
Mr. Mahfooz A. Nazki, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Before we proceed to examine the grievance raised by the appellant in the instant appeal, let the amount of compensation as quantified by the Tribunal under the order impugned be deposited in

Registry of this Court.

Signature Not Verified
Digitally signed by
Rachna
Date: 2022.05.14
12:27:38 IST
Reason: 

On such deposit being made, the same shall be kept in an interest bearing fixed deposit account on auto renewal basis.

Learned Counsel for the appellant submits that the appellant

shall deposit the amount on or before 18th May, 2022.

List on 18th May, 2022 as prayed.

(BEENA JOLLY)
COURT MASTER (NSH)

(ASHWANI THAKUR)
ASTT. REGISTRAR-cum-PS

CHHATTISGARH STATE POWER GENERATION CO. LTD.

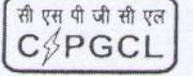
Speed Post & E-mail

छत्तीसगढ़ स्टेट पावर जनरेशन कंपनी लिमिटेड

(A Govt. of Chhattisgarh Undertaking)

(छत्तीसगढ़ शासन का एक उपक्रम)

CIN: U40108CT2003SGC015821



क्र. 04-02/GP-III/179/256

रायपुर, दिनांक: 17-05-2022

प्रति,

क्षेत्रीय अधिकारी

छत्तीसगढ़ पर्यावरण संरक्षण मण्डल

जिला - रायगढ़ (छत्तीसगढ़)

विषय:- माननीय राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन प्रकरण क्रमांक 104/2018 के संबंध में।

संदर्भ:- आपका कार्यालयीन पत्र क्रमांक 2567/क्षे.का./प.सं.मं./2022, रायगढ़ दिनांक 03.03.2022।

-00-

उपरोक्त विषयांतर्गत लेख है कि माननीय राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन प्रकरण क्रमांक 104/2018 में पारित आदेश दिनांक 15.02.2022 के द्वारा छत्तीसगढ़ स्टेट पावर जनरेशन कम्पनी लिमिटेड, गारे पेलमा सेक्टर-III कोल माईन, जिला - रायगढ़ (छत्तीसगढ़) पर अधिरोपित पर्यावरणीय क्षतिपूर्ति के प्रकरण की समीक्षा हेतु छत्तीसगढ़ स्टेट पावर जनरेशन कम्पनी लिमिटेड द्वारा माननीय राष्ट्रीय हरित अधिकरण, नई दिल्ली में याचिका दायर की गयी है (छायाप्रति संलग्न)।

कृपया सूचनार्थ प्रेषित।

संलग्न :- उपरोक्तानुसार।

कार्यपालक निदेशक (सिविल-परियोजना-1)
छ.स्टे.पा.जन.कं.लिमि., रायपुर

प्रतिलिपि:- अधीक्षण अभियंता (सिविल), सीएमडीसी, सीएसपीजीसीएल, घरघोड़ा जिला रायगढ़।



National Green Tribunal

Diary Number

Case Number

Party Name

Advocate Name

Keyword Search

Judges/Member

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Advance Search

Case Details

[Back](#)

Filing Number	070113600632/2022	Filing Date	22-04-2022
Party Name	SHIVPAL BHAGAT VS UNION OF INDIA		
Petitioner Advocate(s)		Respondent Advocate(s)	
Case Number	Review Application No. 12/2022	Registered On	11-05-2022
Last Listed		Next Hearing Date	
Case Status	PENDING		

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CHHATTISGARH ENVIRONMENT CONSERVATION BOARD

Paryavas Bhawan, North Block, Sector-19
Nava Raipur Atal Nagar, Raipur (C.G.) 492002
e-mail - hocecb@gmail.com

No. /H.O./CECB/2022 Nava Raipur Atal Nagar, dated: ___/___/2022
To,

- | | |
|---|---|
| 1. Dr. A.K. Sharma,
Professor,
Department of Civil Engineering,
MANIT-462 003, Bhopal (M.P.). | 2. Prof. Virendra Sethi,
Professor,
Indian Institute of Technology Bombay,
Powai, Mumbai-400 076, Maharashtra. |
| 3. Shri Moqtik Bawase
General Manager,
Environment Research Lab (ERL)
Automotive Research Association
of India, 102, Vetel Hill,
off Paud Road, Kothrud,
Pune-411 038, Maharashtra. | 4. Dr. Padma Rao,
Chief Scientist,
NEERI,
Nehru Marg, Vasant Nagar,
Nagpur-440 020, Maharashtra. |

Sub. :- Carrying Capacity (CC) Study in Tamnar and Gharghoda, Blocks of Raigarh District of Chhattisgarh State – Invitation of Proposal.

Ref. :- Order dated 15/02/2022 of Hon'ble NGT, Principal Bench, New Delhi in the matter of O.A. No. 104/2018.

-----:00:-----

Please refer the order dated 15/02/2022 of Hon'ble NGT, Principal Bench, New Delhi in the matter of O.A. No. 104/2018 (Shivpal Bhagat and others Vs Union of India & others). Copy of the above order is enclosed as **Annexure – I**. Para 18 of the order states that:-

“With regard to carrying capacity study, we are of the view that observation in para 2.1.3 of the Committee of requiring such study within 24 months cannot be accepted. The data is already available on the basis of which carrying capacity can be studied within three months. This may be got done by CPCB and State PCB with the assistance of any other experts/agencies. Funds available with CPCB/State PCB may be utilized, subject to further orders.”

In view of the above, Chhattisgarh Environment Conservation Board (CECB) intends to carry out Carrying Capacity (CC) study of Tamnar and Gharghoda Blocks of Raigarh District of Chhattisgarh State. There are a number of Coal Mines, Power Plants and Sponge Iron Plants are in Operation in these blocks. These plants and coal mines are equipped with CAAQMS, CEMS and EQMS as per requirement. The Board is also conducting stack emission, ambient air quality and water quality monitoring regulary. The power plants, sponge iron plants and coal mines are monitoring air, water and noise of their area as per the consent conditions. On the basis of data available, CECB needs your expertise and institutional support to determine Load Carrying Capacity of above region.

You are requested to kindly submit your commercial proposal for above assistance within a period of 07 days, so that further action may be taken at our end.

An early response is anticipated.

Encl.:- As above.

Member Secretary

Chhattisgarh Environment Conservation Board
Nava Raipur Atal Nagar, District-Raipur (C.G.)

Endt. No. 830 /H.O./CECB/2022
Copy to :-

Nava Raipur Atal Nagar, dated: 5 / 5 /2022

1. Regional Director, Regional Directorate (Central), Central Pollution Control Board, Bhopal, Parivesh Bhawan, Paryawaran Parisar, E-5 Arera Colony, Bhopal (M.P.) 462016 for information and necessary action please.
2. Dr. R.P. Mishra, Nodal officer (NGT OA 104/2018), Regional Directorate (Central), Central Pollution Control Board, Bhopal, Parivesh Bhawan, Paryawaran Parisar, E-5 Arera Colony, Bhopal (M.P.) 462016 for information and necessary action please.
3. Regional Officer, Regional Office, Chhattisgarh Environment Conservation Board, Raigarh (C.G.) for information and necessary action please.

Member Secretary

Chhattisgarh Environment Conservation Board
Nava Raipur Atal Nagar, District-Raipur (C.G.)



CHHATTISGARH ENVIRONMENT CONSERVATION BOARD

Paryavas Bhawan, North Block, Sector-19
Nava Raipur Atal Nagar, Raipur (C.G.) 492002
e-mail - hocecb@gmail.com

No. /H.O./CECB/2022 Nava Raipur Atal Nagar, dated: ___/___/2022
To,

1. Prof. B.C. Meikap ,
Professor,
Department of Chemical Engineering,
Indian Institute of Technology,
Kharagpur,
Kharagpur – 721302 (West Bengal).
2. Dr. Pravesh Chandra Shukla,
Assistant Professor,
Department of Mechanical Engineering,
Indian Institute of Technology Bhilai,
CEC Campus, Sejbahar.
District - Raipur

Sub. :- Carrying Capacity (CC) Study in Tamnar and Gharghoda, Blocks of Raigarh District of Chhattisgarh State – Invitation of Proposal.

Ref. :- Order dated 15/02/2022 of Hon'ble NGT, Principal Bench, New Delhi in the matter of O.A. No. 104/2018.

-----:00:-----

Please refer the order dated 15/02/2022 of Hon'ble NGT, Principal Bench, New Delhi in the matter of O.A. No. 104/2018 (Shivpal Bhagat and others Vs Union of India & others). Copy of the above order is enclosed as **Annexure – I**. Para 18 of the order states that:-

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You are requested to kindly submit your commercial proposal for above assistance within a period of 07 days, so that further action may be taken at our end.

An early response is anticipated.

Encl.:- As above.

Member Secretary

Chhattisgarh Environment Conservation Board
Nava Raipur Atal Nagar, District-Raipur (C.G.)

- 2 -

Endt. No. 1197/H.O./CECB/2022
Copy to :-

Nava Raipur Atal Nagar, dated: 23/5/2022

1. Regional Director, Regional Directorate (Central), Central Pollution Control Board, Bhopal, Parivesh Bhawan, Paryawaran Parisar, E-5 Arera Colony, Bhopal (M.P.) 462016 for information and necessary action please.
2. Dr. R.P. Mishra, Nodal officer (NGT OA 104/2018), Regional Directorate (Central), Central Pollution Control Board, Bhopal, Parivesh Bhawan, Paryawaran Parisar, E-5 Arera Colony, Bhopal (M.P.) 462016 for information and necessary action please.
3. Regional Officer, Regional Office, Chhattisgarh Environment Conservation Board, Raigarh (C.G.) for information and necessary action please.

Member Secretary

Chhattisgarh Environment Conservation Board
Nava Raipur Atal Nagar, District-Raipur (C.G.)



CHHATTISGARH ENVIRONMENT CONSERVATION BOARD
Paryavas Bhawan, North Block, Sector - 19,
Nava Raipur Atal Nagar, District - Raipur (C.G.)
e-mail - hocecb@gmail.com

No. 1989 /H.O./CECB/2022
 To,

Nava Raipur Atal Nagar, Dated: 20/6 / 2022

✓ Dr. Pravesh Chandra Shukla,
 Assistant Professor,
 Department of Mechanical Engineering,
 Indian Institute of Technology Bhilai,
 CEC Campus, Sejbahar.
District – Raipur (C.G.).

Sub. :- Work order for study of Carrying Capacity (CC) in Tamnar and Gharghoda Blocks of Raigarh District of Chhattisgarh State.

Ref. :- 1. This office letter no. 1196 dated: 24/05/2022.
 2. Your proposal dated 25/05/2022 (Received in this office on 01/06/2022).

-----:00:-----

With reference to above subject, Chhattisgarh Environment Conservation Board is pleased to award the work for Carrying Capacity Study in Tamnar and Gharghoda Blocks of Raigarh District of Chhattisgarh State. The total fee to be paid by the Board is Rs. 21.6 Lakhs (Taxes extra). Study work shall be carried out as per the final proposal submitted by your institute. The time period for completion of study work is 03 months.

IIT Bhilai shall ensure that study work incorporates every components of proposal. Please send the final proposal alongwith letter of acceptance within 07 days. You are also requested to submit bank details as per below:-

Beneficiary Name	Beneficiary A/c No.	IFSC Code	Bank Name	Branch Name
------------------	---------------------	-----------	-----------	-------------

Please acknowledge the receipt of this work order.

Member Secretary

Chhattisgarh Environment Conservation Board
 Nava Raipur Atal Nagar, District-Raipur (C.G.)

Endt. No. /H.O./CECB/2022 Nava Raipur Atal Nagar, dated: ___/___/2022
Copy to :-

1. Regional Director, Regional Directorate (Central), Central Pollution Control Board, Bhopal, Parivesh Bhawan, Paryawaran Parisar, E-5 Arera Colony, Bhopal - 462016 (M.P.).
2. Dr. R.P. Mishra, Nodal officer (NGT OA 104/2018), Regional Directorate (Central), Central Pollution Control Board, Bhopal, Parivesh Bhawan, Paryawaran Parisar, E-5 Arera Colony, Bhopal - 462016 (M.P.).
3. Regional Officer, Regional Office, Chhattisgarh Environment Conservation Board, Raigarh (C.G.) for information and necessary action please. You are hereby directed to provide all the relevant informations i.e. brief note regarding capacity, coal consumption, fly ash and solid waste generation, waste management, water consumption, waste water generation, waste water management, stacks, reports of CEMS, CAAQMS and EQMS, plantations etc. of all the power plants, sponge iron plants and coal mines in operation in Tamnar and Gharghoda Blocks of Raigarh District alongwith manual monitoring reports of stacks, ambient air and river of the last 03 years within 15 days to IIT Bhilai.


Member Secretary

Chhattisgarh Environment Conservation Board
Nava Raipur Atal Nagar, District-Raipur (C.G.)

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
I.A. NO. _____ OF 2022
IN
ORIGINAL APPLICATION NO: 104 OF 2018

IN THE MATTER OF:

SHIVPAL BHAGAT & ORS.

...APPLICANT(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

INDEX

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2.	Annexure – A A copy of the Impugned Report by the Oversight Committee dated 16.12.2021	16-216
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6.	Annexure – E A copy of the letter dated 3.05.2021 sent by JPL to Regional Officer, CECB	295
7.	Annexure – F A copy of the L&T Report	296-353
8.	Annexure – G (Colly) A copy of the NIT Report dated 16.11.2021 along with letter dated 18.11.2021 sent to the Regional Officer, CECB	354-374
9.	Annexure – H	375-377

	A copy of email dated 21.12.2021 sent on behalf of the Oversight Committee to JPL	
10.	Annexure – I (Colly) A copy of the proof of payment of the Impugned Levy by JPL	378-380
11.	Annexure – J A copy of order dated 24.06.2021 passed by this Hon'ble Tribunal in in <i>O.A. 104 of 2018</i>	381-414
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13.	Vakalatnama along with Board Resolution	423-425
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FILED BY:



NAMAN JOSHI | GUNEET SIDHU

ADVOCATES FOR JINDAL POWER LIMITED

CHAMBERS OF JOSHI & SINGH

G-46, L.G.F.,

JANGPURA EXTENSION,

NEW DELHI – 110 014

+91 98100 57280

naman.joshi@CJSlegal.in

DATE: 11.05.2022

PLACE: NEW DELHI

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
I.A. NO. _____ OF 2022
IN
ORIGINAL APPLICATION NO: 104 OF 2018**

IN THE MATTER OF:

SHIVPAL BHAGAT & ORS. ...APPLICANT(S)

VERSUS

UNION OF INDIA & ORS. ...RESPONDENT(S)

**OBJECTIONS ON BEHALF OF JINDAL POWER LIMITED
TO THE ENVIRONMENTAL COMPENSATION
AMOUNTING TO RS. 48,30,000/- LEVIED ON IT VIDE THE
OVERSIGHT COMMITTEE'S REPORT DATED 16.12.2021
AND AFFIRMED VIDE ORDER DATED 15.02.2022 BY THIS
HON'BLE TRIBUNAL IN THE CAPTIONED MATTER**

MOST RESPECTFULLY SHOWETH:-

BRIEF DESCRIPTION OF JINDAL POWER LIMITED

1. Jindal Power Limited [hereinafter "JPL"] has been contributing significantly to the growing needs of power in the country and its installed capacity is 3400 MW. JPL has emerged as a best performer in Ministry of Power and Central Electricity Authority project execution excellence study and won two National Awards - Gold Shield and Silver Shield for early completion of Thermal Power Projects. To optimize its operations, the company has adopted leading edge technologies, efficiency processes and world's best practices in project execution and management, thereby setting new benchmarks in India's power sector. JPL has consistently topped the Central Electricity Authority's highest plant load factor list among the major thermal power plants (above 200 MW capacities) in India. Furthermore, for the benefit of the locals, the company deploys its resources to improve infrastructure, education, health, sanitation in and around the area of its operations besides undertaking several CSR initiatives. Thus, the operations of JPL are equally essential for the welfare of the local public and the economy at large. The said

Thermal Power Plant is the source of supply of electricity to various state distribution companies, including but not limited to those in the States of Tamil Nadu and Kerala. Furthermore, more than 5000 families are dependent on the continuing operations of JPL.

2. As detailed herein below, this Hon'ble Tribunal had constituted an Expert Committee and further an Oversight Committee to examine the aspect of environmental damage, remedial steps and assessment of compensation. The proceedings undertaken by the Oversight Committee culminated into the Report dated 16.12.2021 [hereinafter "**Impugned Report**"] which assessed the compensation to be paid by the PPs and public officials, including JPL and also provided long-term and short-term measures to be taken by PPs as remedial steps. Thereafter, this Hon'ble Tribunal passed order dated 15.02.2022 ("**Order**") in *O.A. 104 of 2018* vide which it was directed that compensation assessed by the Report be deposited as interim compensation. It was further directed that the State Pollution Control Board put all PPs, PWD and Health Departments through the Chief Secretary, Chhattisgarh to notice of these proceedings with view to provide them opportunity to show cause why higher compensation be not determined, having regard to the said violations, having regard to their financial capacity.

A copy of the Impugned Report is marked and annexed, herewith, as *Annexure – A*.

A copy of order dated 15.02.2022 passed by this Hon'ble Tribunal in *O.A. 104 of 2018* is marked and annexed, herewith, as *Annexure – B*.

3. Pursuant to the Order, CECB issued a Notice dated 03.03.2022 ("**Impugned Notice**") directing JPL to pay the environmental compensation within 2 months which is the subject matter of the captioned Application. Furthermore, a Show-Cause Notice dated 3.03.2022 ("**SCN – Enhanced Levy**") was issued by CECB asking JPL to show-cause as to why enhanced compensation should not be levied in terms of the Order.

A copy of the Impugned Notice is marked and annexed, herewith, as *Annexure – C*.

A copy of the SCN – Enhanced Levy is marked and annexed, herewith, as *Annexure – D*.

FACTUAL BACKGROUND NECCESITATING THE FILING OF THE PRESENT OBJECTIONS

4. The factual background leading up to filing of the present Application is as follows:
 - a. The captioned matter bearing *O.A. 104 of 2018* titled as *Shivpal Bhagat vs Union of India & Ors.* was filed before this Hon’ble Tribunal on 28.02.2018 praying for issuance of directions to the Respondent Authorities to, *inter-alia*, take remedial steps with respect to the allegations of pollution caused by the thermal power plants, the coal mines and coal washeries in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh, including JPL, M/s Jindal Steel & Power Limited, M/s TRN Energy Private Limited, M/s Mahavir Energy & Coal Benefaction Limited, M/s. Hindalco Industries Limited and M/s. Monet Energy Limited, SECL, i.e. Project Proponents [hereinafter “PPs”].
 - b. As understood from various orders of this Hon’ble Tribunal in the instant matter, several reports were submitted by the Expert Committee constituted by the Hon’ble Tribunal to examine the aspect of environmental damage, remediation measures, fly ash management etc. Further vide order dated 27.02.2020, the Hon’ble Tribunal directed the Expert Committee to act as an Oversight Committee with the CPCB being the nodal agency. The Oversight Committee held several meetings, and submitted its status reports including the Impugned Report. The Oversight Committee visited JPL’s plant at Tamnar, Raigarh on 17.03.2021 when the alleged leakage of ash slurry from the ash dyke was observed subsequent to which, the Committee recommended that JPL conduct a study through a research organization of national repute to determine the stability of the existing ash dyke and take measures required to strengthen the same, as needed (see page 39 of the Impugned

Report). Notably, the leakage was rectified/repared using the filter media and the completion of rectification of the leakage by JPL was informed to Regional Officer, CECB (Member of the Oversight Committee) vide letter dated 03.05.2021. Thereafter, the Oversight Committee conducted a follow up visit on 24.08.2021 when admittedly, no leakage was found. A copy of the letter dated 3.05.2021 sent by JPL to Regional Officer, CECB is marked and annexed herewith as *Annexure – E*.

- c. In fact, JPL had engaged L&T-Sargent & Lundy Limited to conduct the stability of its ash dyke and submitted its Report [hereinafter “**L&T Report**”] vide aforesaid letter 3.05.2021. The purpose and scope of L&T Report is reproduced hereinbelow:

“1.0 Purpose and Scope:

The purpose of this document is to furnish stability analyses of Stage II ash dyke raising and design of new decantation well & its foundation inside the existing filled up ash pond for 4x250 MW O. P. Jindal Super Thermal Power Plant at Tamnar, Raigarh.”

The L&T Report was also re-checked, verified and approved by Prof. S.R. Gandhi, Director- S.V. National Institute of Technology, Surat. Pertinently, the L&T Report also concludes that the ash dyke satisfies all safety parameters.

A copy of the L&T Report is marked and annexed herewith as *Annexure – F*.

- d. Thereafter, pursuant to directions of the Oversight Committee, the Applicant also submitted a detailed Report, prepared by NIT [hereinafter “**NIT Report**”] on 18.11.2021, which affirmed the stability of the ash dyke and specifically noted that no boiling/leakage was observed.

A copy of the NIT Report dated 16.11.2021 along with letter dated 18.11.2021 sent to the Regional Officer, CECB is marked and annexed, herewith, as *Annexure – G (Colly)*.

- e. The proceedings undertaken by the Oversight Committee culminated into the Impugned Report dated 16.12.2021 [which assessed the compensation to be paid by the PPs and public officials and also provided long-term and short-term measures to be taken by PPs as remedial steps]. Pertinently, the said compensation was determined only pursuant to specific directions in this respect by this Hon'ble Tribunal vide its order dated 24.06.2021.
- f. Thereafter, an email dated 21.12.2021 was sent by Dr. R.P. Mishra on behalf of Oversight Committee containing the Impugned Report which merely does lip service to the cardinal principle of *audi alteram partem* inasmuch as the contents therein had already been finalised and submitted to this Tribunal. Therefore, no effective opportunity was given to JPL to challenge the contents of the Report which are *ex-facie* arbitrary and premised entirely on conjectures. It is humbly submitted that JPL ought to have been impleaded before passing of the Order as it was a necessary party. A copy of email dated 21.12.2021 sent on behalf of the Oversight Committee to JPL is marked and annexed herewith as *Annexure – H*.
- g. Subsequently, the order dated 15.02.2022 [hereinafter "**Order**"] was passed by this Hon'ble Tribunal in *O.A. 104 of 2018* vide which it was directed that compensation assessed under the Impugned Report be deposited as interim compensation. It was further directed that "*the State Pollution Control Board put all PPs, PWD and Health Departments through the Chief Secretary, Chhattisgarh to notice of these proceedings with view to provide them opportunity to show cause why higher compensation be not determined, having regard to the said violations, having regard to their financial capacity.*"
- h. Pursuant to the Order, CECB issued a Notice dated 03.03.2022 ("**Impugned Notice**") directing JPL to pay the environmental compensation within 2 months which is the subject matter of the captioned Application. Furthermore, a Show-Cause Notice

dated 3.03.2022 (“SCN – **Enhanced Levy**”) was issued by CECB asking JPL to show-cause as to why enhanced compensation should not be levied in terms of the Order.

i. Without prejudice to JPL’s right to challenge the levy of enhanced compensation vide SCN – Enhanced Levy, it is humbly submitted that the environmental compensation assessed at Rs. 48,30,000/- [hereinafter “**Impugned Levy**”] qua JPL is liable to be quashed. The same has been levied based on mere visual assessment and is uncorroborated by scientific evidence/quantifiable data.

j. In this regard, it is submitted that the Applicant has been diligent in complying with directions of this Hon’ble Tribunal as also the Oversight Committee which is borne out by the fact that it has deposited the Impugned Levy on 11.04.2022 in terms of this Hon’ble Court’s directions vide the Order. However, it was clearly stated that the said payment is without prejudice to JPL’s right to challenge the same as detailed herein below.

A copy of the proof of payment of the Impugned Levy by JPL along with Cover Letter is marked and annexed, herewith, as *Annexure – I (Colly)*.

5. In the above conspectus, JPL has filed the present Application seeking to challenge the findings/ compensation assessed qua JPL in the Impugned Report submitted by the Oversight Committee vide which the Impugned Levy has been calculated as also the Impugned Notice issued by CECB.

6. The present Application is being preferred on the following grounds (among other grounds which JPL might take at the time of hearing), that may be read conjunctively or disjunctively as the case may be, and without prejudice to one another:

GROUND

- A. BECAUSE JPL has promptly rectified/repared the leakage and complied with all directions of this Hon'ble Tribunal as also the Oversight Committee as is evident from the follow up visit conducted by the Oversight Committee on 24.08.2021 wherein no leakage was observed.
- B. BECAUSE JPL has established its diligence and *bonafides* by complying with the directions of the Oversight Committee and repaired the leakage.
- C. BECAUSE JPL's diligence and respect for the Hon'ble Tribunal and directions of the Oversight Committee is further borne out by the fact that it has deposited the Impugned Levy with the CECB on 11.04.2022, on a without prejudice basis and only proceeded to challenge the same vide the present Objections in view of its *bonafide* grievances.
- D. BECAUSE officials of JPL comprehensively explained the Standard Operating Procedure ("SOP") as per which regular inspection of the dyke is conducted and any damage/leakage observed is immediately rectified. The process undertaken for repair of alleged leakage of ash was explained to the Oversight Committee. The relevant excerpt of the Oversight Committee's Report is reproduced hereinbelow:

"The committee has discussed in details about process adopted for repair of the leakage and directed M/s JPL to submit the authentic report about strength of repairing undertaken and the stability report of the existing ash dyke from research organization of national repute on or before 30-11-2021."

- E. BECAUSE the Oversight Committee's interim-report dated 17.03.2021, as reproduced in this Hon'ble Tribunal's Order dated 24.06.2021, only assessed certain alleged violations and directed the aforesaid study to be conducted, i.e. the alleged violations in the Oversight Committee's view were a curable breach.

It was only subsequent to the directions given by this Hon'ble Tribunal vide order dated 24.06.2021 in *O.A. 104 of 2018* that the Oversight Committee embarked on levying environmental compensation which, in JPL's case, is arbitrary and overlooks crucial scientific evidence.

A copy of order dated 24.06.2021 passed by this Hon'ble Tribunal in in *O.A. 104 of 2018* is marked and annexed, herewith, as *Annexure – J*.

- F. BECAUSE JPL focuses on adopting sound Environment Management practices and oriented towards continual improvement. JPL strictly adheres to all the regulatory norms and adopts new technologies for protecting the environment. In fact, JPL has been certified under Quality Management System (ISO 9001:2000), Environment Management Systems (ISO 14001:2004) and Occupational Health & Safety Assessment System (OHSAS 18001:2007).
- G. BECAUSE JPL had also engaged L&T-Sargent & Lundy Limited to conduct the stability of its ash dyke and vide the L&T Report, it was held in ringing terms that the ash dyke satisfied all safety parameters as is evident from the excerpt of the said Report reproduced hereinbelow:

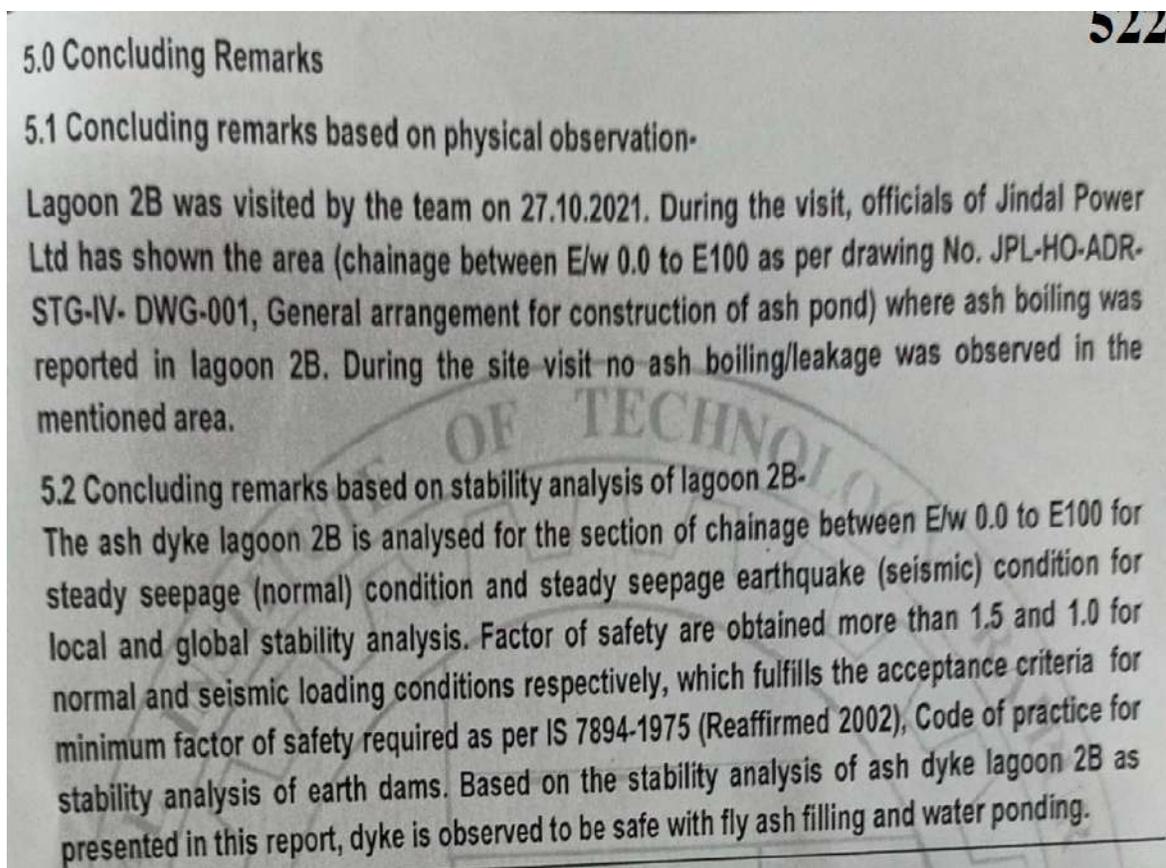
Results

The factors of safety obtained from the Geo-Studio for all conditions are well above the desired values for the new dyke to be raised. These are furnished in Table 6.1.

Table 6.1: FOS values for Dyke

Construction Stage-I	Condition	Factor of Safety	
		Calculated	Required
Starter Dyke (Earthen)	Steady-state	1.623	1.50
	Earth quake (downstream slope)	1.161	1.0
Stage I Dyke	Steady-state	2.116	1.50
	Earth quake (downstream slope)	1.628	1.0
Multi Stage (upto stage-III)	Steady-state	1.982	1.50
	Earth quake (downstream slope)	1.525	1.0

H. BECAUSE pursuant to directions of the Oversight Committee, JPL submitted a report prepared by NIT, Raipur on 18.11.2021, which affirmed the stability of the ash dyke and specifically noted that no leakage was observed as is evident from the concluding remarks of the said Report:



The same was also reiterated vide letter dated 18.11.2021 sent by JPL to the Regional Officer, CECB:

Dear Sir,

This has reference to above referred letter on captioned subject regarding Hon'ble NGT, Case No. 104/2018 of Shivpal Bhagat Vs Union of India. We would like to inform you that as per instruction given by oversight committee during the hearing at Bilaspur, the stability study of ash dyke through reputed institute i.e. National Institute of Technology (NIT) Raipur has been completed. NIT, Raipur has submitted the report. The stability report is attached as **Annexure-1**.

We hope the above study is in line with your requirement.

However, the Oversight Committee, without considering the aforesaid Reports, erroneously concluded that JPL is liable for environmental compensation from 17-03-2021 to 24-08-2021 amounting to Rs. 48,30,000/-.

- I. BECAUSE the detailed Report prepared by NIT, Raipur extensively examined the issue pertaining to leakage from Lagoon 2B at the ash dyke and the structural stability of the ash dyke. Furthermore, it is also established that adequate measures are in place to avoid any environmental damage due to minor leakage. Pertinently, the Oversight Committee has failed to appreciate that the NIT has conducted its study and assessed the ash dyke after the leakage has been repaired by JPL. It is only upon thorough assessment of the dyke, NIT has affirmed its stability and observed it to be safe. Such observation in the Report implies and connotes that the process adopted for repair was upto the satisfaction and met all requisite parameters. However, the Impugned Report has not taken cognizance of these submissions and concluded that *“JPL after complying the direction have submitted stability report conducted by NIT Raipur but did not file any documents to show details about process adopted for repair of the leakage or to establish repair conducted by competent person/ authority therefore is liable for Environmental compensation from 17-03-2021 to 24-08- 2021”*.
- J. BECAUSE sometimes minor leakage of ash water from the ash dyke may occur. In order to avoid contamination of surrounding land, the ash dykes are provided with a toe drain at the bottom of the dyke. In fact, the only alleged violation qua JPL, as reproduced in the interim-report dated 17.03.2021 was that the *“leakage in the exiting ash dyke was observed and ash laden water was found up to toe drain”* which cannot be construed as a breach under any circumstances whatsoever inasmuch as the rationale behind the construction of the toe drain around the ash dyke is also to prevent the spillage of ash water in the adjoining areas of the dyke. Lucidly, the toe-drain is nothing but a mechanism to ward off the possibility of spillage and contamination as any leakage of ash water upto the toe drain from the ash dyke is led to the ash water recycling system and after sedimentation of ash, the water is recycled back to the ash handling process. Thus, it is submitted that there was no spillage of ash water beyond the dyke area and there was no spillage of the same in to nearby agricultural fields/soil. Therefore, no

environmental damage can be alleged to have taken place due to the leakage.

- K. BECAUSE no environmental harm was done by JPL by virtue of its activities. The contents of the Impugned Report do not state that any environmental damage is attributable to JPL. In fact, JPL has engaged Ultimate Envirolytical Solutions, a lab which is recognized by the Ministry of Forest and Climate Change under the Environment Protection Act, 1986, to undertake regular monitoring of the groundwater quality near JPL's plant. The Reports are regularly submitted to the MOEF and CECB. Pertinently, the Report dated 13.12.2021 prepared by Ultimate Envirolytical Solutions clearly bears out the present submission and specifically states that no groundwater has been contaminated around the vicinity of JPL's plant.

A copy of the report dated 13.12.2021 prepared by Ultimate Envirolytical Solutions is marked and annexed herewith as *Annexure – K*.

- L. BECAUSE it is curious that the Impugned Report does not even mention a single instance which states that JPL's activity has caused environmental damage but merely proceeds to levy the environmental compensation assessed at Rs. 48,30,000/- without annexing any further evidence/photographs.
- M. BECAUSE the environmental compensation assessed at Rs. 48,30,000/- levied on JPL is liable to be quashed as the same has merely been levied based on visual assessment and is uncorroborated by scientific evidence/quantifiable data.
- N. BECAUSE the imposition of the environmental compensation cannot be sustained being bad in law. The said compensation has been levied against JPL by the Hon'ble NGT without even impleading it in the said proceedings. Such levy is not in accordance with the mandate of law as the same has been imposed without allowing JPL with an opportunity to explain.

- O. BECAUSE in complete disregard to JPL's submissions including the NIT Report, the Oversight Committee has assessed and the Hon'ble NGT has affirmed the entire compensation against JPL only on the basis that JPL has not presented documents to show the process adopted for repair. The same is *ex facie* arbitrary and unreasonable.
- P. BECAUSE in any case, the calculation of environmental compensation has been done erroneously and in complete disregard of the fact that the rectification of leakage was completed by 03.05.2021 and the letter dated 3.05.2021 was sent to the Regional Officer of CECB apprising the Oversight Committee of such rectification. Therefore, without prejudice to the above, in no circumstances should the compensation be computed for period beyond the date of communication of rectification i.e. 03.05.2021.
- Q. BECAUSE without prejudice to the above, it is pertinent to highlight that JPL has been facing serious hardships pursuant to the coal block de-allocation in 2014. It is submitted that JPL has incurred losses for several years. Therefore, any enhanced compensation determined against the Applicant will further add to its miseries and it is humbly requested that such facts are taken into account by the Hon'ble NGT before imposing any compensation on JPL.
- R. BECAUSE JPL's objections as detailed hereinabove are being made *bonafide* and in the interest of justice. It is humbly submitted that grave prejudice would be caused to JPL if the prayers made vide the present Application are not granted.

PRAYERS

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- a. Pass an order quashing and setting aside the findings/assessment of compensation qua JPL in the Impugned Report dated 16.12.2021 submitted by the Oversight Committee to this Hon'ble Tribunal in *O.A. 104 of 2018*;

- b. Pass an order declaring that the amount of Rs. 48,30,000/- as calculated by the Oversight Committee vide Impugned Report dated 16.12.2021 is incorrect and liable to be quashed;
- c. Pass an order quashing the Impugned Notice vide which JPL was directed to deposit the amount of Rs. 48,30,000/- as environmental compensation within 2 months and all incidental proceedings thereto;
- d. Pass an order directing the CECB to refund the amount of Rs. 48,30,000/- with interest, paid by JPL in terms of the Order and the Impugned Notice;
- e. Pass such other, further orders, directions and decree as this Hon'ble Court may deem fit in the facts and circumstances of this case and in the interest of justice.



THR.

N. Joshi

NAMAN JOSHI | GUNEET SIDHU

ADVOCATES FOR JINDAL POWER LIMITED

CHAMBERS OF JOSHI & SINGH

G-46, L.G.F.,

JANGPURA EXTENSION,

NEW DELHI – 110 014

+91 98100 57280

naman.joshi@CJSlegal.in

DATE: 11.05.2021

PLACE: NEW DELHI

DEPONENT

VERIFICATION:

I, Rajesh Maurya S/o Mr. R.S. Maurya, aged about 43 years, Authorized Representative of Jindal Power Limited, having its Registered Office at Tamnar -496107, District Raigarh, Chhattisgarh do hereby solemnly affirm and verify that the contents of Paras 1-6 and A-R are true and correct as per the official records of the JPL or based on legal advice and nothing material has been concealed therefrom.

Verified at New Delhi on this 11 day of May, 2022

DEPONENT

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. NO. _____ OF 2022

IN

ORIGINAL APPLICATION NO: 104 OF 2018

IN THE MATTER OF:

SHIVPAL BHAGAT & ORS.

...APPLICANT(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

I, Rajesh Maurya S/o, Mr. R.S. Maurya, aged about 43 years, being authorised representative of the Jindal Power Limited, having its Registered Office at Tamnar - 496107, District Raigarh, Chhattisgarh, do hereby solemnly state and affirm as hereunder:

1. I am the authorized representative of Jindal Power Limited and am well conversant with the facts and circumstances of the present case, and hence am competent to swear the present affidavit.
2. I have read and understood the contents of the accompanying Application and state that the facts stated therein are true to my knowledge and belief or are based on the official records IPL and nothing material has been concealed therefrom.



DEPONENT

Identify the Deponent who has signed/put T.I. in my presence

VERIFICATION:

Verified at New Delhi on this ___ day of 4 MAY 2022 2022 that the contents of the above affidavit are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.



DEPONENT

ATTESTED

NOTARY (Govt. of India)
Neelam Sharma
Advocate
Ch. No 165A, Gate No. No.11,
Patiala House Courts,
New Delhi-110001
(M): 8899408301

4 MAY 2022



**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO: 104 OF 2018**

IN THE MATTER OF:**SHIVPAL BHAGAT & ORS.****...APPLICANT(S)****VERSUS****UNION OF INDIA & ORS.****...RESPONDENT(S)****INDEX**

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FILED BY:



NAMAN JOSHI | GUNEET SIDHU

ADVOCATES FOR JINDAL STEEL & POWER LIMITED

CHAMBERS OF JOSHI & SINGH

G-46, L.G.F.,

JANGPURA EXTENSION,

NEW DELHI – 110 014

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naman.joshi@CJSlegal.in

DATE: 12.05.2022

PLACE: NEW DELHI

Note: Vakalatnama and Board Resolution have already been filed with the IA on 11.05.2022 bearing filing number 0701136007442022.

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO: 104 OF 2018**

IN THE MATTER OF:

SHIVPAL BHAGAT & ORS.

...APPLICANT(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

**REPLY ON BEHALF OF JINDAL STEEL & POWER
LIMITED (“JSPL”)**

MOST RESPECTFULLY SHOWETH:-

**FACTUAL BACKGROUND NECESSITATING FILING OF THE PRESENT
REPLY**

1. The captioned matter bearing *O.A. 104 OF 2018* titled as *Shivpal Bhagat vs. Union of India & Ors.* was filed on 28.02.2018 praying for issuance of directions to the Respondent Authorities to, *inter-alia*, take remedial steps with respect to the allegations of pollution caused by the thermal power plants, the coal mines and coal washeries located in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh, including M/s Jindal Power Limited, M/s Jindal Steel & Power Limited, M/s TRN Energy Private Limited, M/s Mahavir Energy & Coal Benefaction Limited, M/s. Hindalco Industries Limited and M/s. Monet Energy Limited, SECL, i.e. Project Proponents [hereinafter “PPs”].
2. As understood from various orders of this Hon’ble Tribunal in the instant matter, several reports were submitted by the Expert Committee constituted by the Tribunal to examine the aspect of environmental damage, remedial steps, fly ash management etc. Further vide order dated 27.02.2020, the Hon’ble Tribunal directed the Expert Committee to act as an Oversight Committee with the CPCB being the nodal agency. On 24.08.2021, the Oversight Committee visited Gare Palma IV/01 Open Cast Coal Mine. The Committee members are aware that JSPL’s captive power plant

situated in Dongamahua has permission for backfilling its fly ash in Gare Palma IV/01 Open Cast Coal Mine. During the visit, the Committee, however, observed that the fly ash mixed with overburden (OB) was allegedly being disposed near drain /Nalah passing in mining lease area. The Committee observed that the distance between disposal site and drain/nallah seemed to be less than 500 metres. The Oversight Committee held several meetings and submitted its status reports, including the Report dated 16.12.2021 [hereinafter “**Report**”] which assessed the compensation payable by the PPs including JSPL and public officials. The Oversight Committee erroneously assessed the Environmental Compensation amounting to Rs. 11,70,000/- to be paid by JSPL for the alleged violations and also provided long-term and short-term measures to be taken by PPs as remedial steps. Subsequently, the order dated 15.02.2022 hereinafter “**Order**”] was passed by this Hon’ble Tribunal vide which it was directed that compensation assessed by the Oversight Committee under the Report be deposited as interim compensation. It was further directed that *the State PCB to put all PPs, PWD and Health Departments through the Chief Secretary, Chhattisgarh to notice of these proceedings with view to provide them opportunity to show cause why higher compensation be not determined, having regard to the said violations, having regard to their financial capacity.*

A copy of order dated 15.02.2022 passed by this Hon’ble Tribunal in the captioned matter is marked and annexed herewith as **Annexure – A**.

A copy of the Report submitted by the Oversight Committee Report on 16.12.2021 is marked and annexed herewith as **Annexure – B**.

3. Pursuant to the Order, CECB issued a Show-Cause Notice dated 03.03.2022 (“**Impugned SCN**”) asking JSPL to show-cause as to why enhanced compensation should not be levied in terms of Order which is the subject matter of the present Reply. Furthermore, CECB issued another Notice dated 03.03.2022 (“**Notice – Environmental Compensation**”) directing JSPL to pay the environmental compensation calculated by the Oversight Committee within 2 months.

A copy of the Impugned SCN is marked and annexed herewith as *Annexure – C*.

A copy of Notice – Environmental Compensation is marked and annexed herewith as *Annexure – D*.

4. At the outset, it is submitted that JSPL has been diligent in complying with directions of this Hon'ble Tribunal as also the Oversight Committee which is borne out by the fact that it has deposited an amount of Rs. 11,70,000/- [hereinafter "**Impugned Levy**"] on 12.04.2022 in terms of this Hon'ble Court's directions vide Order dated 15.02.2022. However, it is pertinent to mention that JSPL has challenged the Impugned Levy vide an I.A. bearing Filing Number 0701136007442022 [hereinafter "**IA**"] in the captioned matter based on, *inter-alia*, the following grounds:

- i. JSPL has promptly removed the fly ash mixed with OB on 24.10.2021 itself, i.e. more than a month before the deadline and complied with all directions of this Hon'ble Tribunal as also the Oversight Committee as is evident from the follow up visit conducted by the Oversight Committee on 24.11.2021 wherein it was observed that, all the flyash-overburden mix had been removed from the site.
- ii. CIMFR analysed the surface water quality of the Nalah passing through the mine and vide its Report submitted in March, 2021, it was concluded that all the parameters are within the permissible limits and that no environmental damage can be alleged to have taken place.
- iii. The contents of the Report do not state that any environmental damage is attributable to JSPL and reflects inaccuracy and vagueness inasmuch as it merely states "*The distance between the disposal site and Nalah seems to be less than 500m*". In fact, the Report dated 10.09.2021 by IIT, Kharagpur and the latest Report dated 8.02.2022 by Ultimate Envirolytical Solutions clearly shows that the water quality of Bendra Nala has not been compromised

due to the backfilling of ash with OB in the mine voids of Gare Pelma IV/1 Coal Mine.

- iv. The Report does not even mention a single instance which states that JSPL's activity has caused environmental damage but merely proceeds to levy the environmental compensation assessed at Rs. 11,70,000/- without any corroborative evidence.
- v. As is evident from the Report, the Oversight Committee had instructed CECB which in turn engaged Ultimate Envirollytical Solutions for collection of water samples for analysis in case of entities such as M/s TRN Energy, M/s Hindalco Ltd. However no such instructions were given by the Oversight Committee qua JSPL and the Committee without any scientific assessment/analysis has imposed the Impugned Levy on JSPL. The same is ex facie arbitrary and speaks volumes about the capricious conduct of the Oversight Committee. Needless to state that the same institution/entity carried out the water quality analysis of Bendra Nala and found that the water quality of the Nala has not been adversely impacted due to the backfilling of fly ash with OB in the mine voids of Gare Pelma IV/1 Coal Mine.
- vi. The imposition of the environmental compensation cannot be sustained being bad in law. The said compensation has been levied against JSPL by the Hon'ble NGT without even impleading it in the said proceedings. Such levy is not in accordance with the mandate of law as the same has been imposed without allowing JSPL with an opportunity to explain.

Furthermore, the contents of the IA qua the Impugned Levy may be read as part and parcel of the present Reply and have not been reproduced herein in detail for the sake of brevity. Therefore, it is humbly submitted that there is no occasion and reason for

enhancement of compensation and also the IA impugning the Environmental Compensation of Rs. 11,70,000/- itself is pending adjudication before this Hon'ble Tribunal.

A copy of the I.A. filed before this Hon'ble Tribunal by JSPL in the captioned matter is marked and annexed herewith as *Annexure – E*.

A copy of the proof of payment of the Impugned Levy by JSPL along with Cover Letter is marked and annexed, herewith, as *Annexure – F (Colly)*.

5. Without prejudice to the submissions made in Paragraph No. 4 hereinabove, it is urged that the Impugned SCN, seeking to levy enhanced compensation, is illegal and liable to be quashed for the reasons detailed herein below.

A. CONTENTS OF THE OVERSIGHT COMMITTEE REPORT DATED 16.12.2021 CANNOT BE CONSTRUED TO MEAN THAT A HIGHER COMPENSATION SHOULD BE DETERMINED

6. In the Order, this Hon'ble Tribunal had placed strong reliance on certain paragraphs of the Report to conclude that payment of compensation, as quantified in the Report against all the PPs, is inadequate. However, it is respectfully submitted that such reliance is misplaced inasmuch as it ignores the context in which the observations pertaining to compensation were given in the Report. The same is detailed hereinbelow:

- i. In Paragraph 8, at Page 45 of the Order, the Hon'ble Tribunal had relied on the highlighted paragraph reproduced hereinbelow:

“1.1 Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling.

*As per compliance report submitted on 07.04.2021 and accepted by Hon'ble NGT in its order dated 24.06.2021 Two SECL mines (IV/2,3) and one JPL mine (IV/1) only are accepting fly ash for disposal in OB dump. Other coal mines in Tamnar and Gharghoda area are not accepting fly ash for disposal in OB dump. **Although Environmental compensation has been assessed but for future they are not exonerated and shall be liable to assessment of Environment Compensation and other legal actions.**”*

Notably, this observation was made in the context of the coal mines/ coal mine allottees that are not accepting fly

ash for disposal i.e. except for the abovementioned two mines. It is in this context that the observation pertaining to “*future action*” against the non-compliant entities was made. It is important to highlight that JSPL has not been operating any coal mine since April, 2015 and thus the above observations are inapplicable qua JSPL. The highlighted portion of the paragraph reproduced hereinabove is not intended to be applied as a general principle for determining higher compensation than that quantified vide the Report.

- ii. In the present matter, each PP’s case has to be adjudged as per the specific averments/facts and cannot be painted with the same brush. Thus, the findings qua enhanced compensation, if any, are inapplicable to JSPL.

B. THE PUTATIVE REASONS FOR CONCLUDING INADEQUACY OF COMPENSATION ARE INCORRECT

7. The reasons for the alleged inadequacy of the compensation are detailed in Paragraph No. 12 of the Order which states that the compensation assessed vide the Report is inadequate. It is humbly submitted that the said reasoning for concluding the inadequacy of compensation in the Report is incorrect for the reasons detailed hereinbelow:

- i. *The first reason for the alleged inadequacy of compensation is that it does not factor in the cost of remediation:* In this regard, it is submitted that the Report, in fact, does factor in the cost of remediation and has also levied higher compensation on entities/public officials who have failed to take remedial steps. For instance, in the context of an entity being M/s TRN Energy Private Limited, the Report notes as follows:

*“On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda. The top of Dump was at least t0 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoined field. **To prevent the same no remedial measures has been taken by the PP.**”*

[Page 82 of the Report]

Furthermore, the Committee also levied a penalty/fine on officials of the PWD and Principal Health Secretary for failure to take remedial action:

“In fact this is a case of deliberate disobedience of remedial measures by the PWD, therefore for environment breach Dept.of PWD is also responsible and therefore cannot escape its liability to pay Penalty / Fine”

[Page 132 of the Report]

“His non-involvement in taking remedial measures is one of the reason to increase public health hazard which arose due to air and water pollution. Neither he took part in environmental Penalty/Fine hearing although noticed nor could show any ground to exempt him from levying the Penalty / Fine”

[Page 138 of the Report]

Therefore, it cannot be said that the cost of remediation has not been factored in calculating the compensation payable inasmuch as the compensation levied by the Committee factors in the conduct of non-compliant entities/persons who have failed to take remedial steps and accordingly, levied higher compensation on such entities/persons as is evident from the chart reproduced hereinbelow:

Sl. No	Name of the industry / department	EC/Penalty/Fine amount in Rs
01	Principal Secretary, Public Works Department Chhattisgarh Government	1,00,00,000/-
02	Principal Secretary, State Health Department Chhattisgarh Government	1,00,00,000/-
03	M/s TRN Energy Private Limited, Nawapara Raigarh	1,82,40,600/-
04	M/s Mahavir Energy and coal beneficiation Limited	1,42,90,000/-
05	M/s Hindalco Industries Limited Coal Mine	2,09,40,000/-
06	M/s Ambuja Cement Limited Coal Mine (GP IV/8)	75,90,000/-
07	M/s Jindal Steel & Power Limited, Dongramau, Tamnar	11,70,000/-
08	M/s Chhattisgarh State Power Generation Company Limited	75,90,000/-

09.	M/s Jindal Power Ltd, Tamnar	48,30,000/-
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The proposition that compensation, as levied vide the Report, factors in the cost of remediation is further borne out by the fact that M/s TRN Energy Private Limited was also required to pay enhanced compensation for damage to property of individuals, i.e. additional remedial compensation on the basis of applications submitted by the villagers:

10. Calculation of property damage on application submitted by villagers in favour of the applicant against TPPs

Applications were against TRN Energy Pvt.Ltd.and against M.s Mahaveer Energy& Coal Benification Ltd. Although copyof the application are been served on these TPPs but they did not file any reply.

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. Ghurauram Rathia Nawapara	381/01	0.076	7030
02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895	408017.5allowed only Rs.1,11,000/- as claimed 175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

It is respectfully submitted that it would be manifestly unjust to determine higher compensation for companies, such as JSPL, which has complied with all orders of this Hon'ble Tribunal, participated in the meetings as directed by the Committee and also implemented remedial steps. In fact, painting all project proponents, i.e., compliant as well as non-compliant entities with the same brush and determining higher compensation is violative of principles of natural justice, especially in view of the fact that JSPL was never given an opportunity to present its case before this Hon'ble Tribunal formed a view regarding the levy of compensation as well as *prima-facie* view with respect to enhanced compensation vide the Order. The email dated 21.12.2021 sent by Dr. R.P. Mishra

of CPCB, Bhopal on behalf of Oversight Committee containing the Report merely does lip service to the cardinal principle of *audi alteram partem* inasmuch as the contents therein had already been finalised and submitted to this Tribunal. Furthermore, the issue pertaining to remedial action already stands covered by the orders of the Hon'ble Tribunal as also the "Long-Term Measures" recommended in various reports submitted by the Committee. Therefore, it is respectfully submitted that any further determination of compensation would be unjust and unlawful.

- ii. *The second reason for the alleged inadequacy of compensation is that it ignores the financial capacity of the Project Proponent in violation as required inter-alia in M. C. Mehta & Anr. v. Union of India, Sterlite Industries (India) Ltd. v. Union of India and Goel Ganga Developers India Pvt. Ltd. v UOI:* At the outset, it is submitted that the Hon'ble Tribunal has wrongly relied on the aforementioned judgments as the same are extraneous to the facts specifically qua the Applicant and thus, inapplicable. It should be appreciated that these judgments were rendered under special circumstances involving issues of extreme magnitude and impact. Unless necessitated by facts and circumstances of the case, such judgments and principles thereof must not be casually applied.
- iii. It is further submitted that the case of *M.C. Mehta (Supra)* was rendered in the context of Article 32 of the Constitution and, as such, is inapplicable to the facts in issue which are to be dealt in relation to provisions of the National Green Tribunal Act, 2010 ("NGT Act") and even otherwise, the said judgement, despite the wide purport of Article 32 stipulated the threshold which has to be met before compensation may be awarded, let alone enhanced compensation. In this regard, reliance is placed on Paragraph No. 7 of *M.C. Mehta (Supra)*:

*"7. ... The power of the Court to grant such remedial relief may include the power to award compensation in appropriate cases. **We are deliberately using the words "in appropriate cases" because we must make it clear***

that it is not in every case where there is a breach of a fundamental right committed by the violator that compensation would be awarded by the Court in a petition under Article 32. The infringement of the fundamental right must be gross and patent, that is, incontrovertible and ex facie glaring and either such infringement should be on a large scale affecting the fundamental rights of a large number of persons, or it should appear unjust or unduly harsh or oppressive on account of theft poverty or disability or socially or economically, disadvantaged position to require the person or persons affected by such infringement to initiate and pursue action in the civil courts. Ordinarily, of course, a petition under Article 32 should not be used as a substitute for enforcement of the right to claim compensation for infringement of a fundamental right through the ordinary process of civil court. It is only in exceptional cases of the nature indicated by us above, that compensation may be awarded in a petition under Article 32. This is the principle on which this Court awarded compensation in *Rudul Shah v. State of Bihar*, (AIR 1983 SC 1086). So also, this Court awarded compensation to *Bhim Singh*, whose fundamental right to personal liberty was grossly violated by the State of Jammu and Kashmir. If we make a fact analysis of the cases where compensation has been awarded by this Court, we will find that in all the cases, the fact of infringement was patent and incontrovertible, the violation was gross and its magnitude was such as to shock the conscience of the court and it would have been gravely unjust to the person whose fundamental right was violated, to require him to go to the civil court for claiming compensation.”

It is further submitted that the financial capacity of a Project-Proponent is only one of the factors which have to be considered before compensation is levied inasmuch as it is trite to say that the compensation so granted should also commensurate with the actual harm done by the Project-Proponent failing which the “polluter to pay” principle will be stretched to an unreasonable point. In this regard, reliance is placed on the Hon’ble Supreme Court’s judgement in *Deepak Nitrite Ltd. Vs State of Gujarat & Ors. 2004 (6) SCC 402* which held in ringing terms:

“6. The fact that the industrial units in question have not conformed with the standards prescribed by GPCB cannot be seriously disputed in these cases. But the question is whether that circumstance by itself can lead to the conclusion that such lapse has caused damage to environment. No finding is given on that aspect which is necessary to be ascertained because compensation to be awarded must have some broad co-relation not only with the magnitude and capacity of the enterprise but also with the harm caused by it. May be, in a given case the percentage of the turnover itself may be a proper

measure because the method to be adopted in awarding damages on the basis of 'polluter to pay' principle has got to be practical, simple and easy in application.”

Therefore, as detailed in Paragraph No. 5 (i) hereinabove, the Committee has assessed the amount payable taking into account the specific violations/harm done by each of the entities/persons and accordingly levied the compensation on each of such entities/persons. While JSPL disputes the already assessed/interim compensation, determination of any further compensation shall be unfair, unjust and unreasonable.

A copy of the judgement passed by the Hon’ble Supreme Court in *Deepak Nitrite Ltd. Vs State of Gujarat & Ors. 2004 (6) SCC 402* is marked and annexed, herewith, as *Annexure – G*.

- iv. Furthermore, the judgement of the Hon’ble Supreme Court in *Sterlite Industries (India) Ltd. v. Union of India 2013 (4) SCC 575* is entirely distinguishable on facts inasmuch as the compensation in that case was also levied based on the actual damage done by the Appellant between 1997 and 2012. The same is evident from the paragraph reproduced hereinbelow:

“45. We may now consider the contention on behalf of the interveners that the appellants were liable to pay compensation for the damage caused by the plant to the environment. The NEERI reports of 1998, 1999, 2003 and 2005 show that the plant of the appellant did pollute the environment through emissions which did not conform to the standards laid down by the TNPCB under the Air Act and through discharge of effluent which did not conform to the standards laid down by the TNPCB under the Water Act.”

In fact, in this judgement no direction was given to levy enhanced compensation in case of any inadequacy but instead utilisation of the principal amount was ordered. Herein the appellants were directed to keep the compensation in a fixed deposit and it was held that if the interest accruing from the fixed deposit paid by the Appellant was “inadequate” for undertaking remedial steps such as “improvement of the environment, including water and soil, of the vicinity of the plant of the appellants after consultation with TNPCB and approval of the Secretary, Environment, Government of Tamil

Nadu” etc., the District Collector was directed to use the principal amount of compensation to undertake such measures. Thus, no direction was given to the District Collector to levy enhanced compensation in case of any inadequacy. The same is evident from the paragraph reproduced hereinbelow:

“50. In the result, the appeals are allowed and the impugned common judgment of the High Court is set aside. The appellants, however, are directed to deposit within three months from today a compensation of Rs.100 crores with the Collector of Thoothukudi District, which will be kept in a fixed deposit in a Nationalized Bank for a minimum of five years, renewable as and when it expires, and the interest therefrom will be spent on suitable measures for improvement of the environment, including water and soil, of the vicinity of the plant of the appellants after consultation with TNPCB and approval of the Secretary, Environment, Government of Tamil Nadu. In case the Collector of Thoothukudi District, after consultation with TNPCB, finds the interest amount inadequate, he may also utilize the principal amount or part thereof for the aforesaid purpose after approval from the Secretary, Environment, Government of Tamil Nadu.

Furthermore, the case of *Goel Ganga Developers India Pvt. Ltd. v Union of India 2018 (18) SCC 257*, in fact, bolsters the arguments raised by JSPL vide the present Reply. In this case, the Hon’ble Supreme Court has specifically held that (i) Courts cannot introduce a new concept of assessing and levying damages unless expert evidence is submitted in this regard; (ii) Damages/Compensation levied on a Project Proponent ought to commensurate with the actual harm done to the environment and (iii) The alleged environmental harm has to be correlated with scientific evidence. In this regard, reliance is placed on the following paragraphs of the said judgement:

“61. Courts cannot introduce a new concept of assessing and levying damages unless expert evidence in this behalf is led or there are some well-established principles. We find that no such principles have been accepted or established in the present case. When there are no pleadings in this regard we fail to understand how the concept of Carbon Footprint can be introduced after evidence has been closed, at the stage of arguments. We cannot assess the impact in actual terms and, therefore, we can only impose damages or costs on principles which have been well settled by law.”

“62. We may also note that the method to which the original applicant referred to is not part of any law, rule or executive instructions...”

“63. We may make it clear that we are not laying down the law that damages cannot be assessed on the basis of Carbon Footprint. In a case where expert evidence in this behalf is led or on the basis of empirical data it is established that by applying the principles of Carbon Footprint damages can be assessed, the Court may, in the facts and circumstances of the case, rely upon such data but, in the present case, there is no such reliable material.”

“64. ..However, in the present case we feel that damages should be higher **keeping in view the totally intransigent and unapologetic behaviour of the project proponent. He has maneuvered and manipulated officials and authorities. Instead of 12 buildings, he has constructed 18; from 552 flats the number of flats has gone upto 807 and now two more buildings having 454 flats are proposed. The project proponent contends that he has made smaller flats and, therefore, the number of flats has increased. He could not have done this without getting fresh EC. With the increase in the number of flats the number of persons, residing therein is bound to increase. This will impact the amount of water requirement, the amount of parking space, the amount of open area etc..”**

In any case and without prejudice to the above, it is pertinent to highlight that JSPL has been facing serious hardships pursuant to the coal block de-allocation in 2014. It is submitted that JSPL ha incurred losses for several years. Therefore, any enhancement of compensation determined against the Applicant will further add to its miseries and it is humbly requested that such facts are taken into account by the Hon’ble NGT before imposing any compensation/further enhancement on JSPL.

- v. *The third reason for the alleged inadequacy of compensation is that it is merely based on the number of days of violation and does not have a deterrent effect:* In this context, reliance is placed on the formula adopted by the Oversight Committee for calculating the environmental compensation:

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

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

It is pertinent to mention that the Average Pollution Index [hereinafter “PI”] for the mining industry and Thermal Power Plants is taken as 80 inasmuch as the Central Pollution Control Board under Section 18(1)(b) of the Water (Prevention & Control of Pollution), Act, 1974 to all SPCBs/PCCs to maintain uniformity in categorization of industries as red, green and orange. Notably, the said categorisation of industries is based on, *inter-alia*, size of industry and consumption of resources. In fact, it is in view of the said categorization that the formula also incorporates the factor of scale of operation [hereinafter “S”] of an industry and accordingly, the same is taken as 1.5 inasmuch as coal mines and thermal power plants are considered to be large units. Therefore, the Scale of Operation and Average Pollution Index factor in the environmental damage done by a certain industry in the past as also the potential for future harm, if any in view of its size and average consumption of resources. The same is evident from the notification dated 07.03.2016 issued by the CPCB:

“The concept of categorization of industries continued to evolve and as different State Pollution Control Boards interpreted it differently, a need arose to bring about necessary uniformity in its application across the country. In order to harmonize the ‘Criteria of categorization’, Directions were issued by CPCB under Section 18(1)(b) of the Water (Prevention & Control of Pollution), Act, 1974 to all SPCBs/PCCs to maintain uniformity in categorization of industries as red, green and orange as per list finalized by CPCB, which identified 85 types of industrial sectors as ‘Red’, 73 industrial sectors as ‘Orange’ and 86 sectors as ‘Green’.”

The process of categorization thus far was primarily based on the size of the industries and consumption of resources. The pollution due to discharge of emissions & effluents and its likely impact on health was not

considered as primary criteria. There was demand from the SPCBs / PCCs and industrial associations for categorization of the industrial sectors in a more transparent manner. Accordingly, the issue was discussed thoroughly during the national level conference of the Environment Ministers of the States, held in New Delhi during April 06-07, 2015 and a 'Working Group' comprising of the members from CPCB, APPCB, TNPCB, WBPCB, PPCB, MPPCB and Maharashtra PCB is constituted to revisit the criteria of categorization of industries and recommend measures for making the system transparent and rational.

Furthermore, the process of categorisation of industries also ensures that the PPs adopt the latest technologies so that their environmental footprint is reduced:

"The purpose of categorization is to ensure that the industry is established in a manner which is consistent with the environmental objectives. The new criteria will prompt industrial sectors willing to adopt cleaner technologies, ultimately resulting in generation of fewer pollutants."

In the above conspectus, it is humbly submitted that it cannot be said that the compensation levied vide the Report is merely based on number of days on violation without any reference to other factors or that it does not have a deterrent effect.

A copy of the notification dated 07.03.2016 issued by the CPCB is marked and annexed herewith as *Annexure – H*.

- vi. Having established that the reasons given for levying enhanced compensation are incorrect, the sequitur is that the any reference to the order dated 18.01.2022 passed by this Hon'ble Tribunal in *OA 114/2018* titled as *Ashwani Kumar Dubey v. Union of India & Ors.* is equally misplaced inasmuch as this Hon'ble Tribunal cannot transplant its specific findings qua the PPs in that case to the facts-in-issue.
8. It is submitted that this Hon'ble Tribunal vide order dated 22.07.2020 had itself directed the Oversight Committee to issue directions for "remedial measures". Relevant part of the order dated 22.07.2020 passed by this Hon'ble Court is reproduced hereinbelow:

"The Oversight Committee may issue appropriate directions to the project proponents for other remedial measures."

Pursuant to directions of the said order, the Oversight Committee submitted the Report and assessed compensation along with short-term and long-term measures which are *ex-facie* remedial in nature. Therefore, it cannot be said that the compensation along with directions issued in the Report are not remedial in nature.

9. It is further submitted that this Hon'ble Tribunal had directed the Committee to submit reports to its satisfaction on several occasions and the order dated 15.02.2022 also notes that this Hon'ble Tribunal agrees with the contents of the Report. Since, it has been contended hereinabove and reasonably established that the issue qua determination of higher compensation is inapplicable to JSPL and that JSPL has diligently abided by directions of this Hon'ble Tribunal by, *inter-alia*, promptly removing the fly ash mixed with OB more than a month before the deadline, engaging CIMFR to analyse the surface water quality of the Nalah which also concluded that all parameters are within the permissible limits (similar conclusions also given by IIT, Kharagpur as well as Ultimate Envirolytical Solutions), it would be manifestly unjust to determine enhanced compensation for JSPL.

PRAYERS

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- A. Declare qua JSPL, that in the present facts and circumstances, no case for determination of enhanced compensation is made out;
- B. Clarify the Order dated 15.02.2022 in terms of Prayer (A) hereinabove and quash the Impugned SCN dated 03.03.2022 issued by the CECB;
- C. Pass such other, further orders, directions and decree as this Hon'ble Court may deem fit in the facts and circumstances of this case and in the interest of justice.

THR.



N. Joshi

NAMAN JOSHI | GUNEET SIDHU

ADVOCATES FOR JINDAL STEEL & POWER LIMITED

CHAMBERS OF JOSHI & SINGH

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DATE: 12.05.2021

PLACE: NEW DELHI



VERIFICATION:

I, Rajan Anand S/o Late Shri B.K. Anand, aged about 50 years, Authorized Representative of Jindal Steel & Power Limited, having its office at Jindal Centre, 12, Bhikaiji Cama Place New Delhi – 110 066 do hereby solemnly affirm and verify that the contents of Paras 1-9 are true and correct as per the official records of JSPL or based on legal advice and nothing material has been concealed therefrom.

Verified at New Delhi on this 12 day of May, 2022



BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO: 104 OF 2018

18

IN THE MATTER OF:

SHIVPAL BHAGAT & ORS.

...APPLICANT(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

I, Rajan Anand S/o, Late Shri B.K. Anand, aged about 50 years having its office at Jindal Centre, 12, Bhikaiji Cama Place New Delhi – 110 066 being authorised representative of the Jindal Steel & Power Limited, do hereby solemnly state and affirm as hereunder:

1. I am the authorized representative of Jindal Steel & Power Limited and am well conversant with the facts and circumstances of the present case, and hence am competent to swear the present affidavit.
2. I have read and understood the contents of the accompanying Reply and state that the facts stated therein are true to my knowledge and belief or are based on the official records of JSPL and nothing material has been concealed therefrom.



Identify the Deponent who has signed about T.I. if in my presence

VERIFICATION:

Verified at New Delhi on this ___ day of 4 MAY 2022, 2022 that the contents of the above affidavit are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.



DEPONENT



4 MAY 2022

3rd MeetingDate- 11th - 13th July 2022**Minutes of the meeting of Joint Committee****OA No. 104/2018 Shivpal Bhagat & Ors. Vs Union of India & Ors.**

Hon'ble NGT in OA No.-104/2018 Shivpal Bhagat vs. Union of India has accepted the recommendation made by oversight committee and has set few directions in its order dated 15.02.2022 to be looked after by the Joint Committee and submit the status of compliance as on 30.06.2022. In compliance of said direction from Hon'ble NGT the third meeting was convened during 11-13th July 2022. Dr. Bhardwaj Adiraju Scientist 'C' MoEF&CC, IRO Raipur could not attend the meeting due to his preoccupation in MoEF&CC at Delhi. Newly joined collector Raigarh could not attend the meeting as she was not aware about previous proceedings in the case.

The meeting was attended by members as under-

1. Dr. R. P. Mishra Scientist "D' Central Pollution Control Board, Bhopal
2. Dr. Paras Ranjan Pujari, Senior Principal Scientist, NEERI, Nagpur
3. Sh. S.K. Verma, Regional Officer, CECB, Raigarh- Member

The committee has requested Deputy Director Mines, District Raigarh and Assistant Director, Mining Safety, Raigarh to attend the meeting for providing input/information about quantity of coal mined in District Raigarh and issues related with safety for disposal of fly ash on OB dump and back filling in mine void. The meeting was also attended by EE, PWD, Raigarh, CMHO, Raigarh and General Manager, District Industries Centre, Raigarh.

The committee has elaborately discussed all the directions set by Hon'ble NGT in its order dated 15.02.2022 and decisions taken during 2nd meeting in

Raigarh and also visited the site as required. Point wise observation of the committee on direction issued by Hon'ble NGT is an under-

Direction-

(a) The State of Chhattisgarh and concerned Industrial units may deposit assessed compensation as interim compensation within two months, to be utilized for restoration of the environment, as per plan to be got prepared and executed by the Committee.

Compliance-

Chhattisgarh Environment Conservation Board has issued Notices to State PWD, Health Department and concerned units on date 03.03.2022 to deposit the assessed compensation.

The status of compensation deposit/ appeal filed is as under -

Sl. No	Name of industry/department	EC/Penalty/Fine amount in Rs	Action Taken
01	Principal Secretary, Public Works Department, Chhattisgarh Government	1,00,00,000/-	Not Deposited
02	Principal Secretary, State Health Department, Chhattisgarh Government	1,00,00,000/-	Not Deposited
03	M/s TRN Energy Private Limited, Nawapara, Raigarh	1,82,40,600/-	Appealed in Hon'ble Supreme Court
04	M/s Mahavir Energy and Coal Benefication limited	1,42,90,000/-	Not Deposited
05	M/s Hindalco Industries Limited Coal Mine	2,09,40,000/-	Appealed in Hon'ble Supreme Court
06	M/s Ambuja Cement Limited Coal Mine (GP IV/8)	75,90,000/-	Deposited
07	M/s Jindal Power Limited Tamnar	48,30,000/-	Deposited

08	M/s. Jindal Steel & Power Limited, Dongramau, Tamnar	11,70,000/-	Deposited
09	M/s Chhattisgarh State Power Generation Company Limited	75,90,000/-	Appealed in Hon'ble NGT

Direction-

(b) Remedial measures be taken by the CPCB, State PCB, State of Chhattisgarh and the concerned Industrial units and the authorities in the light of report of the Committee and observations of this Tribunal.

Compliance-

The joint committee has made field visits during 12-13th July 2022, the status of compliance of the report submitted by Oversight Committee is as under-

1. All the coal mines of Tamnar and Gharghoda area has installed CCTV system to monitor the loading and covering status of trucks transporting the coal from Coal Mines.
2. **Visit of CSPGCL Coal Mines (Gare Pelma Sector-III)** - In compliance of Oversight Committee direction mine authorities have maintained minimum distance of 50 meters on both side the road and constructed physical barrier of steel sheets mounted on iron structure. The mine authorities have also provided garland drain with settling tanks around the OB dump site. In compliance of EC and consent conditions mine authorities have installed 02 CAAQMS in mine area which was found operational and process of its connectivity with CPCB and CECB server was in progress. It was informed by the committee to mine authorities for submission of clarification for factor of safety and suitable geometry of inpit and external dump design by scientific agency to DGMS office, Raigarh.
3. **Visit of M/s Ambuja Cement Coal Mines (Gare Pelma Sector IV/8)-** In compliance of Oversight Committee direction mine authorities have maintained minimum distance of 50 meters on both side the road and

constructed physical barrier of steel sheets and cloth sheet mounted on iron structure which seems to be not more effective. The height of physical barrier was also found less than 3 meter and not of enough strength. In compliance of EC and consent conditions mine authorities have installed 01 CAAQMS in mine area which was found operational and process of its connectivity with CPCB and CECB server was in progress. It was informed by the committee to mine authorities for obtaining study report about factor of safety of OB dump with suitable geometry of in-pit and external dump design from any Institute of repute and submit to DGMS at earliest.

Mine authorities has deposited the amount of EC ordered by Hon'ble NGT.

4. **M/s Hindalco Industries Limited-Coal Mines (Gare Pelma IV/4 &5)-** In compliance of EC and consent conditions mine authorities have installed 01 CAAQMS in mine area which was found operational and process of its connectivity with CPCB and CECB server was in progress. It was informed by the committee to mine authorities for obtaining study report about factor of safety of OB dump with suitable geometry of in-pit and external dump design from any Institute of repute and submit to DGMS at earliest. Mine authorities has reported about continues supply of drinking water to Kondkhel Village.
5. Chhattisgarh Environment Conservation Board has also provided 04 CAAQMS in villages of Ghraghoda and Tamnar i.e. Kunjemida (01), Millupara (01), Chhal Mine Township (01) and Punjipatra (01). JSPL Mine (GP IV/01) has installed 01 CAAQMS, JSPL-CPP, 03 CAAQMS and Jindal Power Plant 04 CAAQMS. As on date total 16 CAAQMS are operational in Tamnar and Gharghoda area **but SECL has not installed any CAAQMS in their operational mines in this area irrespective of the condition in EC and Consent.**
6. M/s IRCON has developed 05 Railway coal siding in the area, out of that 04

been operational and 01 to be operational shortly. The operational coal sidings are located at Korrichapar, Gharghoda, Dharmajaygarh and Bhallumuda. Development of these coal sidings may be useful in reducing by road coal transportation.

7. The representative of state PWD has attended the meeting and submitted the details of work being undertaken in compliance Hon'ble NGT Direction. The committee has also visited the construction site but no significant progress was observed.

- Construction of bitumen road from Jampali to Gharghoda - total length 19 km - work order issued on 02.08.2021- target completion date - November-2022. **(Action by - State PWD- but no progress was observed till 30.06.2022)**
- Construction of bitumen road from Raigarh to Dharmanjaygarh- total length - 56 km - work order issued on 10-01-2022, target completion time - 36 months i.e 10.01.2025 **(Action by - State PWD- but no progress was observed till 30.06.2022)**
- Construction of CC road - Panjipatra - Tamnar- Millupara-total length-23 km, under tendering process. **(Action By- State PWD but no progress was observed till 30.06.2022)**

8. Chhattisgarh Environment Conservation Board has placed order for Carrying Capacity study to Dr. Praveen Chandra Shukla, Assistant Professor, Department of Mechanical Engineering, Indian Institute of Technology Bhillai, District, Raipur which was established in 2016. It is understood that the institute is in process to develop Environmental Engineering Department very soon.

9. Collector Raigarh has issued order on 24-03-2022 to M/s OP Jindal Fortis Hospital for providing free health checkup and treatment facility to villagers of Gharghoda, Dehrideeh, Tenda Nawapara, Millupara, Khamaria, Kunjmura,

Dongamahua, Gare, Dolesara, Saritola, South Regaon, Dhaurabhata, Sarasmal, Rodopali villagers and other nearby villagers.

The committee has visited O.P. Jindal Fortis Hospital and found the hospital operational with only 03 Doctors and limited paramedical staff.

Direction-

(c) The State PCB may put the concerned industrial units to notice of these proceedings other than those who have put in appearance in the light of observations in Para 16 above, to enable the State and such units to file their response, if any.

Compliance-

Chhattisgarh Environment Conservation Board has issued letters on date 03.03.2022 to all concerned units for filing their response if any within one month.

As per information provided CECB, PS PWD and PS Health Department of Chhattisgarh Government has not filed any response on direction of Hon'ble NGT, however M/s TRN Energy and M/s HINDALCO Coal Mine and M/s Mahaveer Energy and coal beneficiation have made appeal in Hon'ble Supreme Court. Chhattisgarh State Power Generation Company Limited has filed review appeal before Hon'ble NGT.

Direction-

(d) In the light of order of this Tribunal dated 18.01.2022 in OA No. 164/2018, Ashwani Kumar Dubey vs. Union of India & Ors. quoted above in Para 13, compensation may be redetermined, subject to final orders of the Hon'ble Supreme Court in Appeal, if any, filed by the affected parties.

Compliance-

Redetermination of compensation may be made after final orders of the Hon'ble Supreme Court in appeal filed by M/s TRN Energy and M/s HINDALCO Coal

Mine and M/s Mahaveer Energy and coal beneficiation

Direction-

(e) Having regard to aggravated adverse impact of the fly ash during the summer season, the State PCB may take appropriate remedial safeguards by issuing appropriate directions to the Project Proponents in question on the subject. For suppression of fly ash dust emissions, sprinkling be ensured utilizing treated water and refraining from use of ground water or fresh water in view of already depleted level of groundwater.

Compliance-

Chhattisgarh Environment Conservation Board, Regional officer, Raigarh has issued notices to project proponent in question to ensure proper operation of sprinklers for suppression of fly ash during summer season. The committee has also directed RO, CECB, Raigarh, for conducting surprise inspections of the site and submit inspection report with photographs.

Direction-

(f) In view of order of this Tribunal in OA No. 164/2018, Ashwani Kumar Dubey vs. Union of India & Ors., quoted earlier, TPPs and other projects have to install requisite devices, take steps for timely utilization of disposal of fly ash, scientific designing of fly ash dykes, address issues relating to public health and restoration of deteriorated environment, providing water supply to affected persons and higher-level monitoring by the statutory regulators. Fly Ash Management and Utilization Mission constituted by the Tribunal headed by the Secretary, MoEF&CC may also look into the issues with regard to fly ash management and utilization in Raigarh District. There has to be executable time bound plan to remove fly ash in Raigarh District for which a road map be prepared by the joint Committee and may also be overseen by the Mission in its next meeting, in coordination with concerned authorities.

Compliance-

As per fly ash utilization report (April 2021-March 2022) submitted by Chhattisgarh Environment Conservation Board the overall scenario of ash utilization is as under.

Sl. No	Ash Detail	Quantity in MT	Percent Utilization
01	Ash Generation	1,29,31,334	NA
02	Supply to cement plant	2,79,988	2.0
03	Brick making plant	8,03,206	6.2
04	Land filling	14,45,439	11.17
05	Ash Dyke raising	9,68,943	7.5
06	Agriculture	00	Nil
07	Mine filling	53,28,926	41
08	Road making/other	10,69,821	8.27
09	Total Utilization	98,96,325	76.53
10	Unutilized fly ash	30,35,009	23.47

- Out of 41% utilization of mine filling, 35% only is disposed in coal mine by Jindal Power Limited and Jindal Steel and Power Limited. Rest 6% utilization could not be technically classified.
- In financial year 2021-22 total ash disposed on land is 1445439 MT which is not in consonance with permission issued i.e. for 10,65,000 MT. It indicates illegal /unscientific disposal of 380439 MT ash on land in the name of low lying area.

In order to prepare executable action plan authentic information about quantities of fly ash generation per year, coal mined per year, disposal in low lying area per year and legacy fly ash disposed on land in last 10 years shall be required to define best mode of disposal to be adopted. In

this context list of fly ash brick manufacturing industries with their capacity has been prepared. **State mining department is yet to provide total annual quantity of coal mined in Raigarh.** State Pollution Control Board to provide list of locations where fly ash had been dumped in the form of heap and its quantity. Joint committee has formulated draft action plan and needs data to finalize. The completion of plan may take more time and request for 3 months' time.

Direction-

(g) Consistent with the Notification dated 31.12.2021 issued by the MoEF&CC, audit of fly ash generation and management be got conducted within three months in respect of each unit generating fly ash in Raigarh District.

In compliance with Notifications dated 31.12.2021 issued by MoEF&CC, CECB has issued notice to all industries of Raigarh District for submitting audit report of fly-ash generation and management on or before 15.05.2022.

It was observed during 2nd meeting that industries of Raigarh are not serious on direction of Hon'ble NGT and only few industries has submitted the audit report within stipulated time. The quality of audit reports were not found technically sound and containing hypothetical figures to match 100 percent utilization. It was observed through reports that agreement made with fly ash brick plants is not authentic as it do not contains details of brick plant like industries department registration number , brick manufacturing capacity, quantity of fly ash required and number of industries with whom the brick plant has made agreement.

In case of disposal of fly ash in low lying areas the industries has not submitted details of location where fly ash had been dumped and also not provided copy of permission for disposal of fly ash. It is understood with

the process observed that responsibility of fly ash disposal in Raigarh district lies on transporters only. The list of industries submitted the audit report is as under

Sl. No	Name of the industry	Status	Observation
01	M/s Jindal Power, Tamnar, Raigarh	Submitted	Satisfactory
02	M/s Jindal Steel & Power, Dongamahua, Raigarh	Submitted	Satisfactory
03	M/s Singhal Enterprises, Taraimal, Raigarh	Submitted	Not Satisfactory
04	M/s Singhal Energy Pvt. Ltd. Taraimal, Raigarh	Submitted	Not Satisfactory
05	M/s Shri ShyamIspat Pvt. Ltd, Raigarh	Submitted	Not Satisfactory
07	M/s B.S.Sponge Pvt. Ltd. Taraimal, Raigarh	Submitted	Satisfactory
08	M/s Raigarh Ispat& Power Ltd, Delari, Raigarh	Submitted	Not Satisfactory
09	M/s NavDurga Fuel Pvt. Ltd. Saraipali, Raigarh	Submitted	Not Satisfactory
10.	M/s Shri Rupanadham Steel Pvt. Ltd, Saraipali, Raigarh	Submitted	Not Satisfactory
11	M/s Anjani Steel Limited, Ujalpur, Raigarh	Submitted	Not Satisfactory
12.	NTPC Larra Super Thermal Power Station, Chhapora, Raigarh	Submitted	Not Satisfactory
13.	M/s Inds Synergy Limited, Kotmar, Raigarh	Submitted	Not Satisfactory
14.	M/s Raigarh Energy Generation Limited, Bade Bhandar, Raigarh	Submitted	Not satisfactory
15.	M/s JSPL, Patarapali, Raigarh	Submitted	Satisfactory
16.	M/s R. R. Energy, Garumaria, Raigarh	Submitted	Not Satisfactory
17.	M/s Sky Alloys Pvt. Ltd. Tememta, Raigarh	Submitted	Not Satisfactory
18.	M/s Nalwa Steel & Power, Taraimal, Raigarh	Submitted	Not Satisfactory
19.	M/s Maa Kali Alloys, Pali, Raigarh	Submitted	Not Satisfactory
20.	M/s MSP Sponge Iron Ltd. Manupali, Raigarh	Submitted	Not Satisfactory
21.	M/s MSP Steel & Power Ltd. Jamgaon, Raigarh	Submitted	Not Satisfactory
22.	M/s N.R. Ispat& Power pvt. Ltd. Gourmudi Raigarh	Submitted	Not Satisfactory
23.	M/s JSW Ispat Ltd. Naharpali, Raigarh	Not Submitted	
24.	M/s Rukmani Power & Steel Kunkuni, Raigarh	Not Submitted	
25.	M/s Rameshwar Steel & Power Ltd. Bade Gumda, Raigarh	Not Submitted	
26.	M/s Salasar Sponge & Power Gerwani, Raigarh	Not Submitted	

27.	M/s TRN Energy Pvt. Limited Bhengari, Raigarh	Not Submitted	
28.	M/s S K S Power generation Binjkot, Raigarh	Not Submitted	

Note- Not Satisfactory- Submitted audit report indicates disposal of fly ash in low lying area but location of disposal is not mentioned.

Direction-

(h) CPCB may issue necessary guidelines to all PCBs/PCCs on determination of compensation in the light of observations in para 12 above.

Compliance-

Concerned division of CPCB is in process to formulate the guidelines for the same.

Direction-

(i) Any other victim of Raigarh District adversely affected by the operation of the TPPs with respect to fly ash in Raigarh District to put forward their claim, if any, with the District Magistrate, Raigarh, within two months which may be looked into by the joint Committee.

Compliance-

Joint Committee has directed Collector Raigarh for taking necessary action in disposal of the claims. In the meeting CECB has informed that about 931 claims have been received in Collector office and the same is being processed for verification and evaluation.

Direction-

(j) The District Environment Plan of Raigarh District may cover all above aspects appropriately so as to be addressed in execution of District Environment Plan in association with stakeholders.

As per district environmental plan of Raigarh, there are 10 operational coal mine which may use much quantity of fly-ash generated in District-Raigarh. Out of these 10 coal mines only 02 mines are utilizing fly-ash in backfilling process after obtaining EC and permission from DGMS. Ministry of Environment Forest and Climate Changes has issued guideline on 28th August,

2019 regarding exemption of requirement of any change in Environmental clearance of thermal power plants and coal mines along with the guidelines to be followed for such disposal.

In this context grant of permission from DGMS to coal mine seems to be more useful option for improving utilization of fly-ash in Raigarh District. The representative of district administration has ensured to cover all the aspect in District Environment Plan after finalization of time bound action plan by the committee.

Direction

(k) The joint Committee may ensure that there is effective monitoring mechanism to address the issues on continuous basis.

The joint committee has discussed the issue of effective monitoring mechanism and suggest the following for further action by concerned on continuous basis.

- ❖ Chhattisgarh Environment Conservation Board, Regional Office, Raigarh shall make fly-ash management wing of appropriate members dedicated for field inspection and reporting. The competent authority of CECB shall provide required man power for the same urgently.
- ❖ The fly-ash management cell shall visit all Thermal Power Plants, Coal Mines and Low-lying disposal projects once in fortnight to ensure implementation of SOP in Low-lying area disposal projects, check illegal disposal of fly-ash in Raigarh District, covered transport of fly-ash and utilization of fly-ash in backfilling of coal mines and mixing with OB dump.
- ❖ District administration shall develop portal/mobile app/Whatsapp link to facilitate public for providing information about illegal dumping of fly-ash and submit their grievances about fly-ash management in

Raigarh. Strict action within 24 hrs shall be ensured by district administration on complaints received on portal/mobile app/whatsapp with information to complaint about action taken.

- ❖ The Joint Committee will convene monthly meeting at Raigarh and Chhattisgarh Environment Conservation Board will submit monthly progress report for fly-ash management in the meeting.

Sh. S.K. Verma,
Regional Officer,
CECB, Raigarh

Dr. Paras Ranjan Pujari,
Senior Principal Scientist,
NEERI, Nagpur

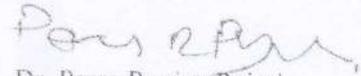
Dr. R. P. Mishra
Scientist "D"
Central Pollution Control Board, Bhopal

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Senior Principal Scientist,
NEERI, Nagpur



Dr. R. P. Mishra
Scientist 'D'
Central Pollution Control Board, Bhopal

Item No. 01

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 104/2018
(with I.A. Nos. 37/2022 & 40/2022)

Shivpal Bhagat & Ors.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 15.02.2022

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

For Applicant: Mr. Devashish Chauhan, Advocate for Applicant No. 1
Mr. Saurabh Sharma, Advocate for Applicants No. 2 to 6
Mr. Amir Singh Pasrich, Advocate in I.A 40/2022

For Respondent(s): Mr. Raj Kumar, Advocate for CPCB
Mr. Raunak Jain, Advocate for MECBL

ORDER

1. The issue for consideration is the remedial action against pollution caused by the Thermal Power Plants and Coal washeries in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh, including M/s Ambuja Cement Limited Coal Mine (GP IV/8) and M/s Mahavir Energy and Coal Benefication Limited, M/s TRN Energy Private Limited, Nawapara Raigarh, M/s Hindalco Industries Limited Coal Mine, , M/s Jindal Steel & Power Limited, Dongramau, Tamnar, M/s Chhattisgarh State Power Generation Company Limited and M/s Jindal Power Ltd., Tamnar. Operation of said units is resulting in contamination of air, water and land and having adverse impact on the environment and the habitants. Water and soil have toxic metals, having potential for health hazard, requiring monitoring of emissions, making the polluters

accountable and regulating the polluting activities. Further, in view of dust pollution due to absence/insufficient roads, PWD has to take remedial action. In view of damage caused to the health, Health Department of the State is to hold health camps and provide health facilities to the victims. The Chief Secretary, Chattisgarh is to oversee. The matter has been dealt with earlier in the last more than three years and factual reports have been submitted by statutory regulators based on which the Tribunal has directed remedial action. Adequacy of such action and further directions are to be considered. We may refer to the earlier proceedings and after considering current status pass further order.

Procedural History

2. Under directions of this Tribunal in the light of facts pleaded, an Expert Committee was required to verify facts and furnish a report. Accordingly, the Committee furnished its report dated 14.10.2019, after visiting the sites and considering earlier reports on the subject. The Committee considered the mitigation measures required to be adopted by the Thermal Power Plants and the Coal washeries. The Committee dealt with the issues of ground water depletion, soil pollution, forest loss and livelihood loss were required to be addressed for which short term and long terms measures were suggested. The Tribunal directed remedial action for dealing with the deficiencies accordingly. Further direction was to review the existing arrangements and furnishing a further report.

3. The matter was further considered on 20.11.2020 in the light of CPCB report dated 17.11.2020 giving the compliance status with reference to directions of this Tribunal in a tabular form and also making further recommendations inter alia on the subjects of providing health facilities for the victims, construction of roads and availability of abandoned coal

mines. The Tribunal also issued directions to the Health and PWD Departments of Chhattisgarh Government and South Eastern Coal Fields. The Tribunal also directed consideration of suggestions of the applicants for taking due precautions in the course of dumping in low lying areas.

Last order dated 24.6.2021 noticing the compliance status and directions for remedial action

4. The matter was last considered on 24.06.2021 in the light of further report by CPCB dated 16.04.2021 after conducting the field visit. The report gave status of compliance as on 15.03.2021. The Tribunal accepted the recommendations of the Committee which were based on objective consideration of the material on record. Directions were also issued to the State Board to prepare list of the areas where unscientific disposal of fly ash had taken place and for remedial action in the matter of providing health facilities, construction of necessary road to prevent further pollution, scientific disposal of the fly ash and assessment of compensation for the past violations. Having regard to the continued violation of serious nature, the Tribunal directed that Oversight Committee will now be headed by a former Judge of High Court for a period of six months from the date he joins the first meeting of the Committee. The operative part of the order dated 24.06.2021 is as follows:-

“1to3...xxx.....xxx.....xxx

4. In pursuance of above, a further report has been filed by CPCB on 16.04.2021. The Committee held meetings during 15th-17th March, 2021 and also conducted field visit. The status of compliance as on 15.03.2021 has been given in a tabular form. Field observations and recommendations have also been mentioned. Relevant extracts from the report are reproduced below:-

“In compliance of Hon’ble NGT order dated 20.11.2020 (Annexure-I), the 3rd virtual meeting of over sight committee was conducted on 27.11.2020. Copy of the minutes of this meeting is placed at Annexure-II.

As decided in the meeting, 3 rd field visit of Gharghoda and Tamnar area in Raigarh was conducted during 15-17th March 2021 to

address the suggestions given by the applicant by way of written submission filed on 18.11.2020 and to assess progress on the ground in terms of compliance with short term recommendations. The Oversight committee has conducted meeting with applicant on 15.03.2021 in the meeting hall of Collector Raigarh. Sh. Bhim Singh, IAS, Collector Raigarh was also with other members of the Oversight Committee. As decided in the meeting on 27.1.2020 Sh. Shivpal Bhagat, (Applicant) was informed about schedule of the meeting through e-mail on 12.03.2021 and through phone on 15.03.2021. Copy of the mail is placed at Annexure-III. Three applicants out of six have attended the meeting viz Sh. Sriram Gupta S/O Mansha Ram Gupta (Applicant 4), Ms. Rinchin D/O Bina (Applicant 5) and Janki Sidar W/o Bharat Sidar (Applicant 6).

All three applicants were then invited to join the Oversight Committee in its field visit on 15th and 16th March 2021. **Contaminated sites and fly ash disposal sites shown by the applicant were listed and course of action decided / recommended by the committee has also been recorded in field visit report.** Copy of the field visit report is placed at Annexure-IV.

The compliance status of short term and long term measures are presented as under-

S. No	ORDERS OF THE HON'BLE NGT FROM RECOMMENDATIONS IN THE REPORT, NOVEMBER 2019	COMPLIANCE REVIEW STATUS AS ON 15.03.2021
01	Short term measures	
	Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling. (Action by respective Coal mine companies).	Two SECL mines (IV/2,3) and one JPL mine (IV/1) are accepting fly ash. Letters were issued to SECL Chaal OC, Monnet Ispat, HINDALCO Limited and M/s Ambuja Cement Ltd. M/s HINDALCO mines informed about no OB dump because of continuous back filling of mined area with OB as per Approved mining plan. M/s Monnet Ispat Mines has been taken over by SECL. No response received from M/s Ambuja Cement Limited. MoEF &CC vide its notification dated 28th August 2019 has modified the conditions stipulated in the EC of TPP and coal mines in line with the fly ash notification and subsequent amendment. It has been mentioned in point no 7 that ministry has stipulated the conditions which prohibited the

		<p>use of fly ash in abandoned mines/low lying area/ soil conditioner in agriculture following the guide lines prepared by CPCB.</p> <p>Accordingly CECB shall amend the consent conditions of all TPP and Coal Mine.</p> <p>More over CEA vide its letter dated 14.02.2020 has informed about declaration of abandoned mines on recommendation of task force. The list includes 24 abandoned OC mines of Chhattisgarh to be used for filling of fly ash generated from TPP. The committee has suggested to Chairman, Chhattisgarh Environment Conservation Board for constitution of State Level Committee to decide the mode and quantity of fly ash to be disposed in working/ abandoned mines/quarries in the State. The same committee may also look after the fly ash disposal issues in Raigarh also on priority. Copy of the letter issued to Chairman, CECB, Raipur, is placed at Annexure-V. Action from CECB is awaited.</p>
b)	<p>Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/ CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.</p>	<p>District Collector of Raigarh has issued letter to concerned department for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly Ash. During visit of the committee, disposal of fly ash in low lying area was observed but seems to be disposed before issue of the order by the collector.</p> <p>As per preconditions of SOP Power plant/ land owner/agency shall obtain statutory permission from regulatory authorities such as SPCB as per requirement.</p>

		CECB is to submit list of the locations of low lying areas being used or earlier used for unscientific disposal of fly ash for which permission has been granted by local administration after getting NOC from CECB.
c)	Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks. (Action by SECL).	It was informed by Regional officer CECB, Raigarh that Jindal Power limited (JPL) has received 44,25,66 MT coal in 2019-20 and 40,24,274 MT coal in 2020-21 through conveyor belt.
d)	Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pre – treatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically, the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms.	PHED Raigarh has informed that water testing laboratories are functional at Gharghoda and Raigarh for testing of drinking water quality of the area. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tap water in village and ensure quality of water in coordination with PHED Raigarh. M/s Hindalco has submitted detail of mine quantity generation and its mode of treatment to committee. PHED is to submit the quantity of water required for kondkhel village. The committee has also suggested to obtain details from Central Ground Water Authority about water recharge points provided by the coal mines at the time of obtaining NOC.
e)	Installation of adequate number of CCTV and CAAQM stations in coal	As per field report by CECB, RO, Raigarh it seems that CCTV has been

	<p>mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information. (Action by respective coal mine companies).</p>	<p>installed by M/s HINDALCO Industries, SECL Gare Palma IV/2 & 3, SECL Chhal. SECL Gare Palma IV/1. At the time of visit M/s Monnet Ispat Mines were not found operational.</p> <p>In case of installation of CAAQMS committee has instructed Member Secretary, Chhattisgarh Environment Conservation Board to issue directions to all coal mines for installation of CAAQMS and its connectivity with CPCB/CECB server. Copy of the letter is placed at Annexure-VI. Status of the same is awaited from MS, CECB, Raipur</p>
f)	<p>Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles. (Action by Public Works Department and respective mining companies). Indian Railways to be directed to submit a time-bound action plan for commissioning of the railway line in Tamnar and Gharghoda blocks to ensure all coal transportation by rail.</p>	<p>EE PWD, Raigarh Sh R K Kharma has informed the committee about requirement of immediate construction of approximate 111 Km CC road (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years.</p> <p>Letter issued to PS, PWD, S-1/03, Mahanadi Bhawan, Raipur by this office vide number RDB/NGTOA104/2018/553 dated 07.09.2020 and 6.01.2021 to sanction Rs. 335 crore for construction of 111 km CC road.</p> <p>No response has been received from PS, PWD, Chhattisgarh Government.</p> <p>IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44 Km Railway line work from KharsiaGharghoda- Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda- bhalumuda-Gare Palma will be completed by June</p>

		<p>2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation.</p> <p>Compliance in Progress.</p>
g)	<p>Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies).</p>	<p>Mitigation measure for health issues is to be overseen by the Principal Secretary, health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. Collector Raigarh has assured to arrange the required medical facility in the area by way arranging health screening camps in all villages within next few months.</p>
h)	<p>Strict vigilance by MOEF&CC for green belt development compliance as per EC conditions</p>	<p>MoEF&CC has issued letters to all coal mines for submitting updated status of green belt developed. Responses received are being compiled and submitted in next meeting of the committee.</p>
i)	<p>We also recommend that no further conversion of UG mines to Open Cast mines be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major noncompliance in pollution control and social cost(rehabilitation).</p>	<p>Letter was issued in September 2020 to MoEF&CC (IA-Coal) for implementation of restriction on conversion of UG coal mines to OC coal mines in Tamnar and Garghoda area of District Raigarh. MoEF&CC representative in the committee has now sent follow-up e-mails to IA division reiterating these recommendations.</p>
02	LONG TERM MEASURES	
a)	<p>Commissioning a detailed and comprehensive environmental load carrying capacity study (as mentioned in NGT order), to be carried out by a reputed</p>	<p>CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh.</p>

	environmental research institute over a 24 month period.	The Technical and Commercial proposal is to be provided by NEERI, Nagpur within 15 days. (Annexure-VII)
	Mode of commissioning of this study may please be decided by the Hon'ble NGT and necessary directions may please be issued accordingly	
b)	To reduce the pollution and other impacts caused by road transport of coal and other minerals directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail of closed conveyor belt.	As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY-2019-20 after construction of new rail line between Kharsia-Gharghoda-Korichhapar. Coal dispatch from Korichhapar railway siding commenced in the FY2019-20. SECL and IRCON shall submit detail about total transportation of coal through Rail in FY-2020-21.
c)	Condition of green belt development may be incorporated at TOR stage of EC application to ensure that green belt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by MoEF&CC. Further while granting TOR, EAC should specify the location of the green belt to provide buffer between coal mine and human settlements and specify sufficient width of the green belt for the same.	Copy of Hon'ble NGT order dated 27.02.2020 has been sent to IA-Coal on 18.09.2020 for further necessary action by MoEF&CC. Continued non-compliance of green belt conditions from EAC of coal is observed. Strict monitoring and follow up action by MoEFF&CC is required.
d)	Ministry of coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and backfilling as per fly ash notification of 2009.	Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh had been submitted to be used for filling of fly ash generated from TPP including 3 in Gare Palma Block. Of these 3 only 01 is actually feasible.

		<p>No progress reported from CECB for constitution of the State Level Committee as proposed.</p> <p>No progress reported by CMD, SECL, Bilaspur in spite of several communications from CECB, CPCB and Collector, Raigarh.</p>
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FIELD OBSERVATIONS

1. Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh has been submitted to be used for filling of fly ash generated from TPP. The committee has written to Chairman, CECB, Raipur for constitution of State Level Committee for management of fly ash disposal in the state with implementation of SOP notified by CPCB. The co-operation of SECL is not satisfactory as many applications of TPP of Tamnar & Gharghoda area are lying unattended by SECL.
2. District collector, Raigarh has issued letter to concern departments for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly ash. During visit unscientific disposal of fly ash were observed at 1) Outside TRN Power ash dyke (By TRN Energy Private Limited) , 2) In Tenda village (By TRN Energy Private Limited) , 3) Outside the Mahaveer Energy (By Mahavir Energy & Coal beneficiation Limited). Onsite observations reveal it as legacy fly ash dump.
3. PHED, Raigarh has proposed drinking water supply scheme (Rs. 1270.41 Lakh project cost) for 10 mining effected villages of Tamnar Block. The details submitted by PHED, Raigarh was verified in Kondkel Village and found insufficient with respect to population of the village. The representative of PHED present during visit of the committee has informed that PHED has established 04 hand pumps, 04 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. Hence it has been decided by the committee to obtain data of ground water recharge system in Gharghoda and Tamnar area, from central ground water authority, Raipur along with data of annual ground water level in the area.
4. Installation of CCTV system in mines of the area was reported complied by all mines whereas its proper operation and recording is to be ensured by SECL in its all mines located in Chhal and Gare Palma. RO CECB Raigarh was requested to physically verify the status of transport of coal in properly covered manner.

5. *EE PWD, Raigarh has informed the committee about immediate construction of approximate 111 Km CC road (Raigarh to Dharmjaigarh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. Hon'ble NGT in its order dated 20.11.2020 (point 5) has instructed PS, PWD to sanction the required fund and ensure execution before March 2021. During field visit execution of the work was not observed, hence the issue was further clarified with EE, PWD, Raigarh who informed as under-*

- *Main high way connecting Raigarh to Dharamjaygarh has now been included in National Highway Scheme*
- *Stretch from Chhal mines to Gharghoda has been approved for two lane*
- *Stretch from Punjipatra to Milupara via Tamnar not yet approved.*

In view of the above committee has instructed to EE, PWD, Raigarh to identify badly damaged patches in this stretch and prepare a budget and get same approved so as to complete the work within three months. Stretch from Punjipatra to Milupara via Tamnar has also to be taken on highest priority because of the heavy traffic load on this route.

IRCON International Limited, has informed that work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 04 coal siding and made 01 siding operational. As per data received from major mining company of the area i.e. SECL, it is reported that 35% coal transport increase has been observed in comparison to last financial year 2019- 2020. (Annexure-VII) It is assumed that coal transport by rail may increase by 50% in addition to earlier transport after completion of the project

SECL and IRCON shall submit detail about total transportation of coal through Rail in FY-2020-21.

6. *CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh. The Technical and Commercial proposal is to be provided by NEERI, Nagpur within 15 days. (Annexure-VII)*

7. *The committee has also discussed the issues in meeting with Collector, Raigarh to expedite the required development as directed by Hon'ble NGT in its order. The outcome of the meeting has been considered in the recommendations.*

8. *In order to make information of the Oversight Committee's work public domain, Collector Raigarh agreed to host a webpage on the Raigarh District website and directed the District information officer (Raigarh) to coordinate with the committee regarding the same.*

In view of the above field observations, the recommendations of Oversight Committee are as under

RECOMMENDATIONS –

1. *Chhattisgarh Environment Conservation Board shall prepare list of areas where unscientific disposal of fly ash has occurred with specific remark of status about permission granted.*
 2. *Chhattisgarh Environment Conservation Board shall also generate data about total quantity of coal mined in Raigarh, total quantity of coal being used by the industries in Raigarh and quantity of locally mined coal available for TPPs and other industries of Raigarh.*
 3. *In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the Oversight Committee about development made in health facilities.*
 4. *Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget for 111 km road from Raigarh to Dharamjaygarh and Punjipatra to Milupara via Tamnar and ensure its execution within three months. In this context time bound action plan shall be submitted to ensure timely execution of the work*
 5. *Directions from Hon'ble NGT may also be issued to Chhattisgarh Environment Conservation Board, Raipur for constitution of State Level Committee to look in to Scientific Utilization of fly ash in the Chhattisgarh State.*
 6. *Directions from Hon'ble NGT may also be issued to CMD, SECL, Bilaspur to expedite disposal of fly ash in abandoned coal mines declared by Central Electricity Authority, Ministry of Power, Government of India vide letter no. 1/8/27/Task Force/ 2013-2019/TCD/230-338 dated 14.02.2020 in consultation with CECEB and complete within three months."*
5. *From the report dated 17.03.2021 annexed to the main report as Annexure-IV, violations have been found on the part of JPL, JSPL, M/s HINDALCO Industries Limited, Mahaveer Bio-Energy Premises and CSPGCL. The observations are quoted below:-*

“FIELD OBSERVATIONS

1. Unscientific dumping of fly ash- The committee has observed unscientific dumping of fly ash at several places, out of these few are temporary/ intermittent and few old dumping of legacy in nature.

- **Within GP IV/1, outside mine void:** Only fly ash dumping as part of backfilling of mine void along with overburden is permitted. No dumping is permitted in open areas; such dumping is leading to ash flying away into human habitation and ecosystems.

Action: As this constitutes violation of EC conditions, CECB to direct JSPL to clean up the unauthorised dump within 7 days and dispose the fly ash in the mine void through the backfilling process. The process of covering fly ash with overburden/ sweet soil appears to be very slow. JSPL shall ensure that fly ash is covered within 07 days to extent possible and also to ensure daily watering or covering up the flu ash during backfilling process.

- **Within GP IV/2-3 outside mine void:** Only fly ash dumping as part of mine void covered with overburden is permitted. No dumping without cover by overburden is permitted in open area as such dumping may lead to ash flying away into human habitation and ecosystem. (Pics5-6)

Action: As this constitutes violation of EC conditions, CECB to direct JSPL to clean up the unauthorised dump within 7 days and dispose the fly ash in the mine void through the backfilling process.

- **Leakage of fly ash slurry from JPL ash dyke:** The ash dyke IIA and IIB of JSPL was observed full and representative of the industry has informed that application for permission to raise the ash dyke height is submitted in MoEF&CC. At the time of visit leakage in the exiting ash dyke was observed and ash laden water was found up to toe drain. Hence possibility of ash dyke breach in future cannot be ruled out. (Pics-07) Action: In compliance of direction from Oversight Committee CECB has inspected the site and directions to the industry is being issued under section 33 of water act. Furthermore, JPL to conduct study through a research organisation of national repute to determine the stability of the exiting ash dyke and take measures required to strengthen as needed. No permission for raising of ash dyke shall be given till safety of the dyke is assured.

- **Outside TRN Power Ash dyke:** TRN power has created an ash dump outside its ash dyke in the village of Nawapara Tenda(Pic- 08). The top of dump is at least 10 feet above the GL. This is not as per definition of dumping in low lying area. Moreover, fly ash utilisation report April 2020 – Jan 2021 provided by TRN

Power shows that they have continued to dump fly ash in low lying areas during May, June and July 2020. There are physical evidences for breaching of mud wall leading to fly ash flowing in to adjoined fields (Pic-9). More over the situation to ash flying into neighbouring habitants and ecosystem could not be ruled out. The dumping of fly ash in Tenda Village is seems to be a legacy dump (Pre-February 2020). This unscientific dumping is visibly eroding in the rain and may flow in to nearby fields and water streams. (Pic-10)

Action: CECB to instruct TRN power to desist from any further dumping, to strengthen the mud dykes, to regularly watering the dump to prevent fly ash dispersal by wind, to prevent any erosion by covering the dump with soil. Actions for the long term remediation of this legacy dump will be determined once mine voids are made available for fly ash disposal.

- **Outside Mahaveer Bio Energy Premises:** Mahaveer Bio energy has created an ash dump behind its premises. (Pics- 11) The top of the dump is at least 10 feet above the GL and does not confirm to the SOP for dumping in low lying area. More over there is not even a proper retaining wall around the dump creating a public hazard.

Action: CECB shall issue show cause notice for improper disposal of fly ash and instruct for removal of the fly ash within 07 days

- **Fire in coal mine/coal dump:** The committee observed smoke in gare Palma IV/2-3 (SECL). (Pic-12) SECL assured the committee that they have followed instructions provided by CIMPHER but measure advised as covering with clay have not worked. Fires/ smoke is constant hazard in coal mining. Nevertheless, fires close to human habitation need to be immediately put on to prevent pollution and health hazard.

Action: CECB to direct SECL to arrest all fire within 500 m of kausampalli and Sarasmal village within 7 days and approach DGMS immediately for obtaining better solution to deal with issues

- **Discharge of untreated waste water-** The committee has observed discharge of untreated water from mine of M/s HINDALCO Industries Limited at Gare Palma IV/4 in to a drain leading to agriculture fields (Pic-13). The mine owner has also not demarcated mining lease area that OB dump activity could be assessed.

Action: As this constitutes a violation of EC conditions, CECB shall direct M/s Hindalco to immediately stop the discharge of effluents, and to install necessary wastewater treatment facilities and have them inspected by CECB within 1 month, show that it meets discharge quality standards set in the EC,

and seek approval of neighboring village Gram Sabha before releasing any further (treated) wastewater out of its mine lease area

The committee also received public representation in field to the effect that the captive coal washery with in the JPL premises was releasing untreated effluents in to the Kelo River that adjoins it. The committee could not visit the site to examine the situation.

Action: CECB has visited the site and reported non-operational status of coal washery, however water samples from River Kelo has been collected and final report will be submitted after completion of sample analysis.

2. Green belt and safe distance from public road/settlement- The committee has found green belt issue and indiscriminate storage of OB dump in CSPGCL (Chhattisgarh State Power Generation Company limited) mine at Gare Palma sector 3. It was observed that dumping of OB was done on both sides of public road without safe distance.

Action: Committee has instructed CECB to inspect the GP III mine and verify the actual location of OB dump as per mining plan. In case of any deviation found strict action shall be initiated in consultation with state mining department as well as Director General of Safety and Mines (DGMS). Regarding Gare Palma IV/5 MoEF&CC to verify and issue appropriate direction.

3. Making abandoned mines available for disposal of fly ash- Update: Ministry of power has identified 3 mines for fly ash dumping in Tamnar-Gharghoda region. Chhaal mine is actually not available because it is being worked. Mand mine is an UG mine has already been decommissioned. It is not easy to reuse it for fly ash dumping. DGMS will be requested to suggest ways in which it can be made available for fly ash dumping. OCP mine at Domnara is found suitable for disposal fly ash available for which SECL, Raigarh has moved the letter to its HO at Bilaspur office seeking permission. In case of permission granted for Domnara mine preference shall be given to TRN Energy Private Limited and some other power producers that generate fly ash and have limited area for fly ash disposal.

Action: Collector Raigarh shall pursue the matter with CMD, SECL, Bilaspur for an early outcome.

4. Public health facilities and disease screening- The committee has also discussed about requirement of health infrastructure and status of available facilities in Gharghoda and Tamnar area. Collector Raigarh has informed the committee that there are adequate facilities available at Tamnar CHC and at the Fortis-JPL multispeciality hospital at Tamnar. Collector

Raigarh has also assured to organise 'health camps' within the next 3 months in all villages surrounding the mines areas in T & G blocks, and then ensure regular screening after that on a yearly basis.

Action: CECB RO Raigarh with DC, Raigarh to reconfirm that JPL hospital is open to all villagers for free of cost treatment.

5. Improve Road quality to reduce spillage and air pollution- Gharghoda and Tamnar area of Raigarh is extremely rich in coal mineral and extensively mined by SECL and other private companies. It was observed that very less percent of coal produced in the area is available for exiting industries of Raigarh. Most of the coal mined is being transported to nearby areas in Chhattisgarh and other states. Hence road condition of Raigarh plays an important role in deterioration of ambient air quality. In order to ensure better ambient air quality an statistical balance is to be developed between road transport and rail transport. It was found satisfactory that development of rail network with five coal siding in the area are at the stage of completion. Hence it is required to decide a time line for transportation of coal by rail only especially being dispatched to other states. Road transport of coal shall be limited for those power plants operational in Raigarh.

EE, PWD, Raigarh has informed the committee that main highway connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme. Stretch from Chhal mines to Gharghoda has been approved for two-lane and its strengthening. Stretch from Punjipathra to Milupara via Tamnar (25 km) and Stretch from Milupara to Lailung not yet approved.

Action: Since the actual process of constructing the NH will take at least two years, PWD is instructed to identify badly damaged patches in this stretch and prepare a budget and get the same approved and acted upon immediately (within 3 months). As far as constructions of other stretches are concerned PWD shall take highest priority because these are the stretches with heaviest traffic density.

6. Inadequate quality of drinking water supply to Kondkhel village- This could not be verified in this visit, but Hindalco was already instructed to stop providing water from Bendra nala, and to provide water from coal mine after proper filtration and treatment. Hindalco has yet to comply.

Action: Direction from collector Raigarh may be issued to M/s HINDALCO and PHED, Raigarh for compliance within three months."

6. Before discussing the report and issuing further directions, we may dispose of IAs which have been filed. I.A. No. 97/2021 has been filed on behalf of M/s Jindal Steel and Power Limited (JSPL) seeking direction for short term measures for transportation of coal. The Expert

Committee having already gone into the matter, we do not find any scope for piecemeal direction in isolation when the matter is being dealt with holistically based on recommendations of a credible committee, which are not shown in any manner to be erroneous. I.A. No. 97/2021 is disposed of accordingly. I.A. No. 25/2021 was filed by the applicant for modification of the constitution of the Committee. We do not find any merit in the said application as report has already been submitted which is being considered. The IA stands disposed of. I.A. No. 382/2021 is for direction to the MoEF&CC not to permit expansion of Hindalco Industrial Limited project for underground mine being converted to Opencast mine. We are of the view that instead of granting the injunction sought, the concerned authorities may look into desirability or otherwise of such expansion, in the first instance and if the applicant is aggrieved, he will be at liberty to take remedies against the permission if so taken. I.A. No. 382/2021 stands disposed of accordingly.

7. We may also note the response of the applicants to the report of the Committee. It is submitted that dumping of fly ash in low lying areas needs to be avoided in view of earlier order of this Tribunal dated 27.02.2020, based on the recommendations of the Committee as required monitoring is not viable. Further, any such unscientific dumping which may have already taken place needs to be remedied. It is further submitted that no timeline has been provided in the recommendations of the Committee for remedying long pending and continuing problems. Actions suggested on behalf of the applicants under different heads are reproduced below:-

“A. Dumping in low lying areas:

- (i) The Applicants reiterate that there should be No dumping of fly ash in low lying area as has been accepted by this Hon’ble Tribunal vide it’s Order dated 27.02.2020 and the Order dated 20.12.2020 be clarified in this regard and directions be issued to the Oversight Committee in this regard.
- (ii) CECB be directed to amend the consent conditions of all TPP and Coal Mine as per MoEF&CC’s notification dated 28th August 2019 as mentioned in the Report of the Oversight Committee
- (iii) The Hon’ble NGT should direct for a clean up of the Fly Ash, since the monsoon rains will start soon and again the legacy ash dump sites will pollute the river and agricultural land.”

B Repairing and Maintenance of roads inside and outside the mine area:

Committee had also visited the new operations at Gare Pelma Sector 3 which is under the Chhattisgarh State Power Generation limited and there too the trucks are using the said road, which the Hon’ble NGT had directed to be made form Raigarh to Milupara, but no mention of such violations have been made in the Report. It is suggested that there should be proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles”

C. *Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case.*

D. *MoEF&CC be directed to forthwith submit the data on Green Belt development before the Hon'ble Tribunal with respect to District Raigarh.*

E. *Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages.*

F. *Installation of adequate number of CCTV and CAAQM stations in coal mining area.*

G. *Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks.*

H. *Comments on the field observations:*

- a. *Impose Environmental damages on the units found in violation of EC conditions as several EC violations have been recorded by the committee but no action has been proposed /recommended by the Committee against the violators*
- b. *Address the issue of fires in the overburden dumps in all operations, which has been left unaddressed.*
- c. *Committee be directed to present plan for water recharge*
- d. *Effluents and coal discharge was noticed in the river and nallas. No measure and punitive action has been suggested for that. This issue may kindly be addressed.*
- e. *The field visit reports of the Oversight Committee should be cross verified with the actual action taken and compliance of the recommendations.*
- f. *The field visits should be more regular and the report of the Oversight Committee should be placed in Public Domain so that the work done so far and the status of action taken is made public."*

8. We have given due considerations to the report of the Committee as well as suggestions made on behalf of the applicants. The recommendations of the Committee need to be accepted. The State Board should prepare list of areas where unscientific disposal of fly ash has taken place and generate data about the quantity of the coal mined, used in the industries and available for TPPs. Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipatra to Milupara, disposal of fly ash in abandoned coal mines and constitution of State Level Committee to look into scientific utilization of the fly ash. Taking such steps is undoubtedly necessary for protection of the environment. The suggestions of the applicants reproduced above also need to be considered by the Oversight Committee.

9. The Oversight Committee may make assessment of compensation for the violations on the basis of which the statutory State Board may take further action, following due process of law. The Committee may continue to oversee remedial measures in terms of directions of this Tribunal. The Committee may undertake field visit and also interact with all the stakeholders. The Committee will be at liberty to take assistance from any other Expert/Institution.

10. We regret to note failure of the concerned departments of the State of Chattisgarh to respond to the Committee and to perform their Constitutional obligation to protect environment and public health. Pending taking coercive measures for such failures in due course, we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned departments, including PWD and Health on the subject of construction of road and providing health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries.

11. Having regard to the seriousness of the issues involved and their impact on the environment and public health, we direct that the Oversight Committee will now be headed by Justice V.K. Shrivastava, former Judge of Chhattisgarh High Court, available at Bilaspur. He will be entitled to honorarium at the rate of Rs. 2 lakhs per month, apart from logistic support for the purpose of work of the Committee. His tenure will be for six months from the date he joins the first meeting of the Committee, which may be done within one month from today. The amount will be payable by the State PCB - Chhattisgarh Environment Conservation Board.

12. The report about the compliance status as on 30.11.2021 may be furnished to this Tribunal on or before 15.12.2021 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. A copy of the report may also be provided to the authorities who are required to implement the recommendations of the Committee to enable such authorities to file their response, if any, before the next date."

Report of the oversight Committee dated 16.1.2022 – status of compliance and remedial action

5. In pursuance of above, the Oversight Committee has filed its report on 16.01.2022 through the CPCB. It is stated that the first meeting of the Committee was held on 19.07.2021 and compliance status was discussed.

Claims were invited from the affected villagers and stake holders were heard. Compensation were assessed, after hearing the affected parties, including PWD, Chhattisgarh, Health Department, Chhattisgarh and the erring industries. The compensation assessed by joint Committee against the concerned Departments of Chhattisgarh Government and erring the industries is as follows:-

<i>Sl. No</i>	<i>Name of the industry / department</i>	<i>EC/Penalty/ Fine amount in Rs</i>
01	<i>Principal Secretary, Public Works Department Chhattisgarh Government</i>	<i>1,00,00,000/-</i>
02	<i>Principal Secretary, State Health Department Chhattisgarh Government</i>	<i>1,00,00,000/-</i>
03	<i>M/s TRN Energy Private Limited, Nawapara Raigarh</i>	<i>1,82,40,600/-</i>
04	<i>M/s Mahavir Energy and coal beneficiation Limited</i>	<i>1,42,90,000/-</i>
05	<i>M/s Hindalco Industries Limited Coal Mine</i>	<i>2,09,40,000/-</i>
06	<i>M/s Ambuja Cement Limited Coal Mine (GP IV/8)</i>	<i>75,90,000/-</i>
07	<i>M/s Jindal Steel & Power Limited, Dongramau, Tamnar</i>	<i>11,70,000/-</i>
08	<i>M/s Chhattisgarh State Power Generation Company Limited</i>	<i>75,90,000/-</i>
09.	<i>M/s Jindal Power Ltd, Tamnar</i>	<i>48,30,000/-</i>

6. Out of the above, individuals found entitled to compensation are as follows:-

S. No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. Ghurauram Rathia Nawapara	381/01	0.076	7030

02	Sh. Harcharan Rathia &	09/01	4.411	408017.5 allowe d only Rs.1,11,000/- as claimed
	Sh. Malik Ram Rathia Kantagdeeh	09/02	1.895	175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Rathia Singh	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

7. As already noted, the compensation has been determined after opportunity to the concerned parties based on the violations found as follows:-

“1. M/s TRN Energy Private Limited, Nawapara, Raigarh-

M/s TRN Energy Private Limited (2x300MW) thermal power plant is located in village Bhengari, Nawapara (Tenda), Gharghoda, Raigarh. The plant started its commercial production in 2016 with an average generation of fly ash 4000 MT per day. The thermal power has generated approximately 28,79,126 MT fly ash during January 2016 to March 2021, out of which 58% (1665007MT) has been disposed in low lying area of village Chote Gumda, Bade Gumda, Nawapara, Tenda and Baansmuda. As per detail submitted by the TPP the area used for disposal of fly ash is approximately 17.378 Hectare.

*TRN power has created an ash dump violating EC conditions outside its ash dyke in the village Nawapara Tenda. **There are physical evidences for breaching of mudwall leading to fly ash flowing into adjoining field even situation to fly ash into neighboring habitants. On field visit on 24-25.08.2021 we have seen that by the side of State High way unscientific fly ash dump has been found , also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Another fly ash dump adjoining to Forest and nalah in personal land of some villager have been seen, due to cracks and land break /erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda. The top of Dump was at least 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoining field. To prevent the same no remedial measures has been taken by the PP. On current visit dated 25.08-2021 we find that some of the fields have become useless, in agricultural***

field flowing of fly ash was found. On road side flow we could see the flowing of fly ash in heavy quantity. A pretty big area has been covered under flowing of fly ash from this Dump.

Representative from TRN admits all these OB dumps and contended that after obtaining the permission from land owner and Gram Panchayat Fly ash dump have been made.

Although they brought some papers and made attempt to show that they have not violated the Environmental conditions, but could not produce permission / consent of State Pollution Control Board. The thermal power plant has also submitted copy of study report conducted in 2018 by ISM Dhanbad which recommends about no metal contamination in ground water due to leaching from fly ash disposed in low lying area.

Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines gives liberty to loose disposal of fly ash that's too above ground level.

Chhattisgarh Environment Conservation Board has informed about issue of closure notice to the industry. TPP has submitted the reply of notice which is under consideration for decision. The representative of the industry have informed about construction of new ash dyke for which land has been acquired in 2017 and Environmental clearance obtained in year 2011.

Ash Dyke belonging to TRN Energy Ltd, on visit we find that at one place wall of the dyke is severely damaged and we apprehended that accident may took place, Nodal Officer informed the facts for repairs forthwith so as to avoid any unfortunate event. Underground water discharge from dyke is there and the discharged water is flowing to agriculture field. Water samples have been collected. Fly ash flying over the ash dyke has also been seen. Even some of the persons were seen roaming over the dried fly ash lying in the dyke. It appears that there is no recycle water system operating. Construction does not appear to be scientific.

Representatives of TRN does not dispute the damage but they contended that Railway has made dump of the soil in their outer wall and that dump has been eroded due to rain but could not show any evidence to support his contentions. They also stated that as per original permission accorded by MoEC&CC they have constructed this second Ash dyke and for perusal shown the permission letter. In this permission letter there is no sanction of more than one ash dyke even as per deliberation it could come to know that first ash dyke is inside the Plant and this ash dyke has been made outside the plant. Whether ash dyke should have been built in the vicinity of habitants, to reply this question they could not able to show

any legal authority or any permission. So far as water discharge is concerned they stated that this water discharge belongs to Railway.

For non compliance of the environmental standard/ violations of legal direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved. TRN is liable for environmental compensation.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s TRN Energy Private Limited, Nawapara is also included in that list for Environmental Compensation of Rs. 1,48,80,488 on which Hon'ble Supreme Court vide its order dated 04.11.2019 has directed deferment of the proceedings.

In addition to above and in view of a number of breaches of environmental conditions not earlier considered for compensation, independent Environmental Compensation for following period is calculated as under-

- **Initial date of compensation- 01.04 .2020**
- **Last date of compensation- 30.11.2021**
- **Number of days- 608**
- **EC in Rs. 1,82,40,600/- (One Crore eighty two lakhs forty thousand and six hundred)**

2. M/s Mahaveer Energy & Coal Benification Limited –

*M/s Mahaveer Energy & Coal Benification Limited is Biomass based 12MW Thermal Power Plant located in Village Bhengari, Gharghoda, Raigarh. The plant started its commercial production in 2014 with an average generation of fly ash 20,000 MT per annum. The thermal power has generated approximately 1,39,839 MT fly ash during April 2014 to March 2021, out of which 0.04% (56MT) has been disposed in low lying area of village Bhengari. The industries during hearing have submitted documents related with agreement for fly ash use by Sh. Saroj Kumar S/o Sh. Prabhakar Kumar in Brick manufacturing. This agreement was done on 04.12.20 indicating that fly ash generated before 04.12.2020 have been disposed in low lying area. The industry has also provided copy of revenue records in support of ownership of the land. Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. **None of the notifications or guidelines gives liberty to loose disposal of fly ash that's too above ground level. No consent has been obtained from CECB.***

*The above said notification only permits for reclamation and compaction of fly ash in low lying area but do not give liberty to loose disposal of fly ash that's too above ground level. **The oversight***

committees during its visit have observed heaps of disposed fly ash giving its way to become air borne or flow with rain water in drain leading to surface water contamination.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s Mahaveer Energy & Coal Benification Limited is not included in that list for Environmental Compensation because the industry has submitted report of 100% utilization in manufacturing of fly ash brick to Chhattisgarh Environment Conservation Board which seems to be misleading information given to statutory authority.

Mahaveer Bio Energy has created an ash dump behind its premises in violating the SOP and EC even creating a public hazard. On field visit dated 25-08-2021 we found near a temple there was a fly ash dump adjoining to Forest and River, due to erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground and as per persons gathered there the land is govt. land recorded as "Chote Jhad Ka Jungle". No guidelines as prescribed since 1999 have been followed. As per report of committee dated 11-10-2019 it has been found that M/S Mahaveer Energy is indulging in extensive and irresponsible disposal of fly ash in village Bhengari. In that report Fig. 3 Éxtent of fly ash dumping in agricultural land in Bhengari Village close to Bhengari Nala and Fig. 4. 40 feet height flyash dump by M/s Mahaveer Energy in Bhengari village (in the name of low lying areas dump). On recent visit on 25-08-2021 we saw the spot (Fig.4 of that report) and found that earlier reporting still continues. We also saw evidence of flowing fly ash from upper portion to lower portion. On 15-17 March visit it has been noted that Mahaveer Energy has created an ash dump behind its premises the top of dump is at least 10 feet height above the ground level and does not confirm to the SOP for dumping in low lying area, even there is no proper retaining wall around the dump creating a public hazard. In present visit we still found the Dump present in open sky flying ash in environment.

Representative from Mahaveer Bio Energy to defend their action have accepted all those dump but their contention is that because of demand of Mandir Samiti, dump near Mandir has been made, other dump are in their own land, they are using fly ash in making the bricks under their own kiln and also providing fly ash to other kiln holder but to support he could not produce land owner ship in his name or other documents regarding actual use of fly ash in making the bricks.

For non compliance of the environmental standard/ violations of legal direction for which there is no rebuttal on the other hand has been open and as disclosed above is proved. M/s Mahaveer Energy & Coal Benification Limited is liable for environmental compensation.

In compliance of Hon'ble NGT, Principal Bench order dated 12.02.2020 in OA No.117/2014, CPCB has computed the amount of Environment Compensation for individual TPPs for non-utilization of 100% fly ash in year 2018 (2018-19) and 2019 (2019-20) respectively. M/s Mahaveer Energy & Coal Benification Limited is not included in that list for Environmental Compensation because the industry has submitted report of 100% utilization in manufacturing of fly ash brick to Chhattisgarh Environment Conservation Board which seems to be misleading information given to statutory authority.

Environmental Compensation is calculated as under-

- Initial date of compensation- 01.01.2018
- Last date of compensation- 30.11.2021
- Number of days- 1429
- Operation factor considered- 0.5 (small scale- biomass plant)
- EC in Rs. 1,42,90,000/- (One crore forty two lakhs ninety thousand)

3. Penalty/Fine on Principal Secretary Public Works Department, State of Chhattisgarh.

Committee constituted vide order dated 22-07-2019 after due consideration including field visit submitted its report and the recommendations made therein were considered by the NGT vide order dated 27-02-2020

Short term measures

4.1 f. Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

Long term measures

4.2 b) To reduce the pollution and other impacts caused by road transport of coal and mother minerals , direction may be issued that coal transport by road from coal mines or thermal power plants in these two blocks will be permitted only for a year, after which transport must done by rail or closed conveyor belt only.

Hon'ble the NGT in order dated 27-02-2020 in para 4 has mentioned that **"We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for protection of environment and public health and environmental rule of law.**

Further compliance review status as on 09-11-2020 has been filed and considered by Hon'ble NGT vide their order dated 20-11-2020.

02. Long Term Measures

REVIEW STATUS AS ON 09-11-2020

As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY 2019-20 after construction of new rail line between Kharsia – Gharghoda-Korichhapar, coal dispatch from Korichhapar railway siding commenced in FY 2019-20. It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2020.

The Committee on field observation has made recommendation as below:-

EE PWD was present before committee to apprise the status of PWD roads in the area. Committee has observed very bad road conditions in Tamnar and Gharghoda area which seems to be one of the measure factors for deterioration of ambient air quality. EE PWD Sh. Khamra has informed the committee about requirement of immediate construction of approximate 111 KM CC road (Raigarh to Dharamjay Garh about 76 Km and Punjipathra to Milupara about 35n Km.) **but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda.** More over SECL has paid an amount of 42 Crore to Raigarh PWD for construction of 19 Kms, 7m wide tar road from Gharghoda to Jampali in compliance of NGT order.

RECOMMENDATIONS

2. Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget of Rs. 335 Crore (@ Rs 3.00 crore per km) for construction of CC road approximately 111 km length of 7 m width (Raigarh to Dharamjay Garh about 76 km and Punjipatra to Milupara about 35 km) and insure its execution before March 2021. In this context time bound action plan with bank guarantee of Rs. 35 Crore may be obtained from PWD, Chhattisgarh to ensure timely execution of the work.

Hon'ble NGT passed order that Principal Secretary Health and the PWD Department, Chhattisgarh Government may act as per recommendations of the committee. (NGT order dated 20-11-2020)

Further compliance review status as on 15-03-2021 has been filed and considered by Hon'ble NGT vide their order dated 24-06-2021.

f). Proper repairing and maintenance of road outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

REVIEW STATUS AS ON 15-03-2021

EE PWD, Raigarh has informed the committee about requirement of immediate construction of approximate 111 KM CC road (Raigarh to Dharamjay Garh about 76 Km and Punjipathra to Milupara about 35n Km.) but due to budget constraint the work is pending since last several years.

Letter issued to PS, PWD, S-1/03 Mahanadi Bhawan, Raipur by this office vide number RDB/NGTOA 104/2018/553 dated 07-09-2020 and 06-012021 to sanction Rs. 335 crore for construction of 111 km CC road. No response has been received from PS, PWD Chhattisgarh Government.

FIELD OBSERVATION S

5. EE PWD Raigarh has informed the committee about immediate construction of approximate 111 Km CC road (Raigarh to Dharamjaygarh about 76 Km and Punjipathra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. Hon'ble NGT in its order dated 20-112020 (point 5) has instructed PS, PWD to sanction the required fund and ensure execution before March 2021. During field visit execution of the work was not observed, hence the issue was further clarified with EE, PWD, Raigarh who informed as under:-

- > Main High way connecting Raigarh to Dharamjaygarh has now been included in National Highway Scheme
- > Stretch from Chhal Mines to Gharghoda has been approved for two lanes
- > Stretch from Punjipathra to Milupara via Tamnar not yet approved

In view of the above committee has instructed to EE, PWD, Raigarh to identify badly damaged patches in this stretch and prepare a budget and get the same approved so as to complete the work within three months. Stretch from Punjipathra to Milupara via Tamnar has also to be taken on highest priority because of the heavy traffic load on this route.

RECOMMENDATIONS

4. Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget for 111 km road from Raigarh to Dharamjaygarh and Punjipathra to Milupara via Tamnar and ensure its execution within three months. In this context time bound action plan shall be submitted to ensure timely execution of work.

FIELD OBSERVATIONS AS NOTED IN PARA 5 OF THE ORDER DATED 24-06-2021.

5. Improve Road quality to reduce spillage and air pollution- Gharghoda and Tamnar area of Raigarh is extremely in coal mineral and extensively mined by SECL and other private companies. It was observed that very less percent of coal produced in the area is available for existing industries of Raigarh. Most of the coal mined is being transported to nearby areas in Chhattisgarh and other states. Hence road condition of Raigarh plays an important role in deterioration of ambient air quality. I order to ensure better ambient air quality and statistical balance is to be developed between road transport and rail transport. It was found satisfactory that developments of rail network with five coals siding the area are at the

stage of completion. Hence it is required to decide a time line for transportation of coal by rail only specially being dispatched to other states. Road transport of coal shall be limited for those power plants operational in Raigarh.

EE PWD, Raigarh has informed the committee that main highway immediately connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme. Stretch from Chall mines to Gharghoda has been approved for two lane and its strengthening. Stretch from Punjipathra to Milupara via Tamnar (25 km) and stretch from Milupara to Lailung not yet approved.

Action : Since the actual process of constructing the NH will take atleast two years , PWD is instructed to identify badly damaged patches in this stretch and prepare a budget and get the same approved and acted upon immediately (within 3 months). As for as constructions of other stretches are concern PWD shall take highest priority because these are the stretches with heaviest traffic density.

Hon'ble the NGT in para 8 have observed that Steps need to be taken expeditiously for development of health facilities , constructing necessary road from Raigarh to Dharamjaygarh and from Punjipathra to Milupara,..... In para 9 directed that "The Oversight Committee may make assessment of compensation for the violation on the basis of which the statutory Board may take further action, following due process of law." In para 10 passed order that "We regret to note failure of the concerned departments of the state of Chhattisgarh to respond the Committee and to performs their constitutional obligation to protect environment and public health. Pending taking coercive measures for such failure in due course , we direct the Chief Secretary , Chhattisgarh to ensure necessary action on the part of the concerned department , including PWD and Health on the subject of construction of road and providing Health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries"

Thrice Hon'ble NGT passed order against PWD and Health Department of State of CG finally apprised them towards penal consequences of disobedience but both these department took the said orders in a very casual manner and even gave a deaf ear to those orders.

Opportunity of hearing for consideration of environment compensation/ penalty has been provided. Intimation was sent to PS PWD Chhattisgarh Government to join the committee meeting on 16th September 2021 for hearing about progress/ constraint observed in delivering the target defined in action plan submitted to Hon'ble NGT. Chief Engineer, Bilaspur and Executive Engineer Raigarh of PWD attended the meeting and briefed the progress as under-

1. An amount of Rs.6274.33 Laks is sanctioned on 08.09.2021 for 27.50 km CC road from Punjipathra to Tamnar.
2. Approval granted on 23.02.2021 for an amount of 2032.95 Lakhs for renovation work of 13.40 km road from Raigarh to Gharghoda.
3. Approval granted on 08.09.2021 for an amount of 1797.25 Lakhs for renovation & Strengthening work of 10 km road from Chaal to Gharghoda.
4. So far as patch repair work is concerned, no documents or material could be produced even otherwise we could not see any repair work going on, on the roads.

All above sanctions and approvals are subject to acquirement of land, Release of Loan and two years' time for completion. **Till date there is no progress regarding acquisition of land, sanction of loan, etc. All these facts itself shows that matter has not been given any seriousness or to say in near future the road is not going to be made.**

The committee is not satisfied with submission.

Matter to be considered for imposition of Penalty/Fine

From afore stated complete facts it is clear that dept. of PWD did not care to follow the directions of the committee and also did not complied the orders of the Hon'ble NGT even they misguided committee and NGT by informing that road main highway connecting Raigarh to Dharamjaygarh has now been shifted to NH scheme which appears to be not correct because no such document to show that NH has taken over the Road has been provided. Although they received amount from SECL despite that they did not took interest to construct road. Non Construction of road and lack in repair work is one of the reason for pollution caused by road transport even there is no surety that in near future the construction of road will be made by the department. In fact this is a case of deliberate disobedience of remedial measures by the PWD, therefore for environment breach Depart. of PWD is also responsible and therefore cannot escape its liability to pay Penalty / Fine.

If environmental Compensation is to be levied as per calculation below-

- Start date non- compliance- 07.09.2020
- Last date of compensation- 30.11.2021
- Number of days- 448
- Rate Rs. 30,000 per day
- EC comes to Rs- 1,34,40,000 (One Crore, thirty four lakhs, forty thousand)

But we are of the opinion that Penalty/ fine should be imposed , therefore after due consideration we assess/propose Penalty/Fine imposed on Principal Secretary PWD, State of CG Rs.1,00,00,000/- (Rs. One Crore)

Penalty/Fine on Principal Secretary, Health Department, CG Govt.

Committee constituted vide order dated 22-07-2019 after due consideration including field visit submitted its report and the recommendations made there in were considered by the NGT vide order dated 27-02-2020

Short term measures

*g. Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (4A 314/2014 CZ) case. (Action by respective coal mine companies). Hon'ble the NGT in order dated 27-02-2020 in para 4 has mentioned that "We find that the recommendations are based on relevant studies and need to be considered by the power plants and mines in the area for protection of environment and public health and environmental rule of law. In para 5 have made reference to applicants contentions and passed order in para 6. **In para 6 have ordered that "Mitigation measures for health issues may be over seen by the Principal Secretary , Health, Govt. of Chhattisgarh. For this purpose , the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary , Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds."**(NGT order dated 27-02-2020)*

Further compliance review status as on 09-11-2020 has been filed and considered by Hon'ble NGT vide their order dated 20-11-2020.

01. *Short term measures*

g. Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies)

REVIEW STATUS AS ON 09-11-2020

"Mitigation measures for health issues may be over seen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds."

02. *Long Term Measures*

b) To reduce the pollution and other impacts caused by road transport of coal and other minerals, direction may be issued that coal transport by road from coal mines or thermal power plants in these two blocks will be permitted only for 1 year, after which transport must done by rail or closed conveyor belt only.

REVIEW STATUS AS ON 09-11-2020

The Committee on field observation has made recommendation as below:-

RECOMMENDATIONS

1. In order to ensure development of health facilities in the village of mining affected area, Principal Secretary, Health, Chhattisgarh Government may be advised to keep informing the oversight committee about development made in health facilities’.

Hon’ble NGT passed order that Principal Secretary Health and the PWD Department, Chhattisgarh Government may act as per recommendations of the committee. (NGT order dated 20-11-2020)

Further compliance review status as on 15-03-2021 has been filed and considered by Hon’ble NGT vide their order dated 24-06-2021.

01. Short term measures

- g). Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendation of the committee report of 14-06-2019 in Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies)

REVIEW STATUS AS ON 15-03-2021

“Mitigation measures for health issues may be overseen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. Collector Raigarh has assured to arrange the required medical facility in the area by way of arranging health screening camps in all villages within next few months.

RECOMMENDATIONS

3. In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the Oversight Committee about development made in health facilities.

FIELD OBSERVATIONS AS NOTED IN PARA 5 OF THE ORDER DATED 24-06-2021.

4. Public health facilities and disease screening – The committee has also discussed about requirement of health infrastructure and status of available facilities in Gharghoda and Tamnar area, Collector Raigarh has informed the committee that there are adequate facilities

available at Tamnar CHC and at the Fortis – JPL multispecialty hospital at Tamnar. Collector Raigarh has also assured to organize “health Camps” within the next three months in all villages surrounding the mines areas in T & G blocks, and then ensure regular screening after that on a yearly basis.

Hon’ble the NGT in para 8 have observed that Steps need to be taken expeditiously for development of health facilities, constructing necessary road from Raigarh to Dharamjaygarh and from Punjipathra to Milupara,.....In para 9 directed that “The Oversight Committee may make assessment of compensation for the violation on the basis of which the statutory Board may take further action, following due process of law.” In para 10 passed order that “We regret to note failure of the concerned departments of the state of Chhattisgarh to respond the Committee and to perform their constitutional obligation to protect environment and public health. Pending taking coercive measures for such failure in due course , we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned department, including PWD and Health on the subject of construction of road and providing Health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries”

Thrice Hon’ble NGT passed order and finally apprised them to wards penal consequences of disobedience but department took the said orders in a very casual manner and even gave a deaf ear to those orders.

Opportunity of hearing for consideration of environment Penalty/Fine has been provided to the department.

Intimation was sent to PS, Health, Govt. of Chhattisgarh to join the committee meeting on 16th September 2021 for hearing about progress/ constraint observed in delivering the target defined in action plan submitted to Hon’ble NGT. PS Health Chhattisgarh Government could not ensure his presence in person/representative in the meeting.

The documents and information provided about infrastructure of health facilities reveals that health care facilities are insufficient and no serious efforts have been made to improve it even on the direction of Hon’ble NGT.

Hence the matter to be considered for imposition of environmental Penalty/Fine.

- The oversight committee in its report dated 14.10.2019 submitted to Hon’ble NGT had recommended proper and free health care facilities with multispecialty treatment system may be provided in all coal mine adjacent villages.

In this context Hon'ble NGT has given the liberty to PS Health Government of Chhattisgarh to oversee the mitigation measures for health issues. For this purpose the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds.

- *In its further order dated 20.11.2020 Hon'ble NGT has directed PS, Health Govt. of Chhattisgarh to keep informing the oversight committee about development made in health facility. In spite of the direction issued by Hon'ble NGT no progress was submitted PS, Health, Govt. of Chhattisgarh to the oversight committee.*
- *Hon'ble NGT in its order dated 27.02.2020 has directed that mitigation measures for health issues may be overseen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health, Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. A copy of this order be sent to the CPCB, Principal Secretary, Health, Govt. of Chhattisgarh, Ministry of Coal as well as the MoEF&CC by e-mail.*
- *Hon'ble NGT in order dated 24.06.2021 on point number 10 mentioned that
"We regret to note failure of the concerned departments of the State of Chhattisgarh to respond to the Committee and to perform their Constitutional obligation to protect environment and public health. Pending taking coercive measures for such failures in due course, we direct the Chief Secretary, Chhattisgarh to ensure necessary action on the part of the concerned departments, including PWD and Health on the subject of construction of road and providing health care facilities and drinking water to the victims in the area. Any negligence by the State authorities may result in rendering the concerned senior officers personally accountable by way of prosecution under the provisions of the NGT Act, imprisonment under section 25 NGT Act read with section 51 CPC and exemplary costs out of their salaries."*

Principal Secretary Health neither responded the above orders issued by Hon'ble NGT nor could do any work to protect environment and public health. He not only took all the orders passed by Hon'ble NGT in a very casual manner but also gave a deaf ear to those orders. His non involvement in taking remedial measures is one of the reason to increase public health hazard which arose due to air and water pollution. Neither he took part in environmental Penalty/Fine hearing although noticed nor could show any ground to exempt him from levying the Penalty / Fine.

If environmental Compensation is to be levied as per calculation below-

- Start date non-compliance- 27.02.2020
- Last date of compensation- 30.11.2021
- Number of days- 641
- Rate Rs. 30,000 per day
- EC comes to Rs. 1,92,30,000 (One Crore, ninety two lakhs, thirty thousand)

But we are of the opinion that Penalty/ fine should be imposed , therefore after due consideration we assess/propose Penalty / Fine imposed on Principal Secretary PWD, State of CG Rs.1,00,00,000/- (Rs. One Crore)

5. Physical verification of progress as on 30.11.2021 and Environmental Compensation

Visit of CSPGCL Coal Mines (Gare Pelma Sector -III) - The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB dump on one side Pic-02 of the road was located at approximately 80m distance from road side but OB dump all along road was not within prescribed distance, even on many places it is adjacent to road. Dump process is still continuing . We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Villagers assembled there and applicant's representatives have stated there that because of dump and traffic in road this place has been declared as accidental zone and within a year around 10 persons have been killed in accident. Road condition is very bad. Although in one side Provision of check drains have been seen but appears to be not having width of adequate size, the sludge or waste materials along with water is passing through the agricultural fields and is terminating in nallah.(Subsequently we come to know that this is not a Nala but River)((O.B. Dump in CGSPGCL mine at Gare Palma sector 3 observed on field visit during 15-17 March 2021 on both sides of Public Road). This public road is within the mining area and as stated and shown by company officers present there as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not complied the directions of notification 2009.Although in one side Provision of check drains have been seen but in other side there appears no provision of check drains and garland drains have been made to ensure that the sludge or waste materials does not go into the nullah. (Subsequently we come to know that this is not a Nala but River).

For environmental compensation and for remedial measure CGSPGCL , was required to be heard on Maintenance of Public Road, on illegal OB dump , non use of fly ash , non construction of garland drains and proper settling tanks , Sludge and waste materials passing through agricultural field destroying crop production going to Nallah. (Subsequently we come to know that this is not a Nala but River) therefore the mine authorities were instructed to present in hearing

meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur. **Environment compensation hearing dated 14th September 2021. Heard, Chhattisgarh State Power Generation Company Limited Coal Mines (Gare Pelma Sector -III) –**

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB Dump has been made on both sides of road even in some places adjacent to road. This public road is within the mining area and as stated and shown by companies officer present there, as per mining plan road is to be diverted. For OB dump use of 25% of fly ash is compulsory but lessee did not complied the directions of notification 2009. For Mining operation roads with the mines area is to be constructed by the lessee and lessee has to divert public roads, at his own cost to facilitate scientific mining. We saw a number of coal loaded trucks passing through this road and also this road is under use of the lessee. Condition of the road is bad. The mine authorities were present in hearing meeting with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

The representatives of CSPGCL presented the mining plan in which location of the OB dump is sited on the same place subject to diversion of PWD road passing between lease area. They stated that CSPGCL has deposited required amount with PWD, Raigarh for diversion of the road. There is no material to know whether PWD is diverting the road or not and if they intend to divert the road, by which time they may start and complete the diversion. Hence storage of OB dump near to public road may create danger to public passing through the road. **In this context committee was of the opinion that CSPGCL shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect the public interest from accident as well as fugitive emission. CSPGCL shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. CSPGCL shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash OB dump shall be followed.**

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron structure up to a height of minimum 3m at 50m distance from road on both side of road along full road length in leased area. The said construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

On verification visit dated 24-11-2021 we found that construction of physical barrier of steel sheet mounted on iron structure was in

progress. Mines authorities present there stated the further minimum 15 days time may take to complete the work. They also apprised that CSPGCL obtained necessary permission from DGMS for compliance of notification 2009 utilization of 25% of fly ash. M/s CSPGCL vide its letter dated 18.11.2021 requested to DGMS for obtaining permission to use fly ash in its OC mine Gare Pelma sector-III as per study report submitted by CIMFER. Director of Mine Safety, Raigarh vide its letter dated 23.11.2021 has restricted fly ash dumping in the opencast working till submission of clarification for factor of safety (FOS) and suitable geometry of inpit and external dump design by scientific agency.

Violations of environmental conditions and directions as noted above brings the Chhattisgarh State Power Generation Company Limited Coal Mines (Gare Pelma Sector -III) under four corners for payment of Environmental compensation.

The environmental compensation (EC) is based on the following formula-

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

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
5. LF, has been taken 1.0 for population less than one million

- The CTO issued on 23.10.2020 has condition of fly ash utilization in stowing.
- Consent condition was amended on 22.06.2021 for utilization of fly ash in OB dump.
- Date of first observation of non-compliance- 17.03.2021
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 253 days

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)

6. Visit of M/s Ambuja Cement Coal Mines (Gare Pelma Sector-IV/8)-

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit of the committee OB dumping was observed on both side of the road (Pic-03). This public road is passing through the mines area and utilized by public, Mines operator and coal transporters. **No garland drains with proper settling tanks have been constructed. 25% of fly ash as required in 2009 notification for OB dump has not been done.** We saw a number of coal loaded trucks passing through this road, Road condition is very bad. Ambuja Cement Ltd to be heard on Maintenance of Public Road, on illegal OB dump, non use of fly ash, non construction of drains and proper settling tanks . The mine authorities were instructed to present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

Heard, M/s Ambuja Cement Limited Coal Mines (Gare Pelma Sector -IV/8) on Environment compensation on 14th September 2021

The field visit of oversight committee dated 17.03.2021 has observed dumping of OB on both sides of public road. In accordance with recommendation of the report mine site was visited on 24.08.2021 by Chairman and members of the new committee. During visit it was found that OB dump was located very near to road side which was creating danger to public and transport moving on road. The mine authorities were present in hearing meeting on 14th September 2021 at Bilaspur with approved mining plan/ copy of EC/ permission from DGMS and CTE / CTO issued by Chhattisgarh Environment Conservation Board, Raipur.

The representatives of M/ s Ambuja Cement Limited presented the mining plan in which location of the OB dump is sited at distance of minimum 45m from road side subject to diversion of PWD road passing between lease area. Officials of M/s Ambuja Cement Limited stated that they have deposited required amount with PWD, Raigarh for diversion of the road but there is no material to know whether PWD is diverting the road or not and if they intend to divert the road , by which time they may start and complete the diversion . Hence storage of OB dump near to public road may create danger to public passing through the road. In this context committee was in opinion that M/s Ambuja Cement Limited shall maintain minimum distance of 50 meters on both side the road and provide physical barrier all along the road in lease area to protect the public interest from accident as well as fugitive emission. M/s Ambuja Cement Limited shall also provide adequate garland drain along with OB dump with sufficient number of settling ponds. M/ s Ambuja Cement Limited shall obtain necessary permission from DGMS and CECB and see that as per notification 2009 utilization of 25% of fly ash in OB dump shall be followed.

The mine authorities has accepted the suggestion and assured for construction of physical barrier of steel sheet mounted on iron

structure up to a height of minimum 3m at 50m distance from road on both side of road along full road length in leased area. The said construction has to be completed on or before 30th November 2021. The mine authority shall also maintain PWD road to a length falling in their mining lease area.

On verification visit dated 24-11-2021 we found that construction of physical barrier of steel sheet mounted on iron structure was in progress. Mines authorities present there stated that further minimum 15 days time may take to complete the work. They also apprised that they could not obtain necessary permission from DGMS for compliance of notification 2009 utilization of 25% of fly ash.

Violations of environmental conditions and directions as noted above brings the M/s Ambuja Cement Limited Coal Mines (Gare Pelma Sector -IV/8) under four corners for payment of Environmental compensation.

The environmental compensation (EC) is based on the following formula-

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

Where,

EC= Environmental Compensation in Rs
PI= Pollution Index of Industrial Sector
N= Number of days of violation took place
R= A factor in Rs
S= Factor for scale of operation
LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large scale units.
5. LF, has been taken 1.0 for population less than one million

Environmental compensation is calculated as under-

- The CTO issued on 23.10.2020 has condition of fly ash utilization in OB dump and stowing.
- Date of first observation of non-compliance- 17.03.2021
- Last date taken for assessment- 30.11.2021
- Number of days for non-compliance- 253 days

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)(30,000x253)

EC in Rs. 75,90,000/- (Seventy five lakhs ninety thousand)

7. M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5)

*The committee has also visited the site of M/s Hindalco Industries Limited coal mine on 24th November 2021 and found that the mine is divided in two parts. In both parts mines operation is continuing. Back filling was also being done without utilizing fly ash. **OB Dump has also been created without utilizing fly ash. Green belt has not been developed, however in OB dump they have planted some ornamental plant like GUL MOHAR, some fruit plant like mango, Guava etc. these plants are very small and their survival is under question. Trees to be planted in green belt or otherwise in mines area are not planted. We could not find garland drain along OB dump and settling ponds. From officials present we could come to know that coal extracted from here is supplied to their captive power plant situated in ORRISSA. When they have their own power plant, they are also producing fly ash but are not utilizing their fly ash here in their mines in back filing or in OB dump even they did not tell how they are disposing their own fly ash. M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5) has been directed to be present to defend their liability to pay environmental compensation in environmental compensation hearing on 25.11.2021 at Bilaspur with all relevant documents.***

Heard M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/4 & 5) on 25-11-2021 on assessment of environmental compensation.

Representatives from M/s Hindalco Industries Limited – COAL MINES (Gare Pelma IV/ 4 & 5) appeared and contended that they have on mobile connectivity contacted DGM for permission and guidance for utilization of fly ash ,who gave a date for their inspection. They stated that after getting permission from DGM they may take steps to utilize Fly ash in back filling and OB Dump.

The mines is found divided in two parts . In both parts mines operation was continuing. Back filling was also being done without utilizing fly ash. OB Dump has also been created without utilizing fly ash. Green belt has not been developed, however in OB dump they have planted some ornamental plant like GULMOHAR, some fruit plant like mango etc. these plants are very small and their survival is under question. We could not find garland drain along OB dump and settling ponds. From officials present we could come to know that coal extracted from here is supplied to their captive power plant situated in ORRISSA . When they have their own power plant, they are also producing fly ash but are not utilizing their fly ash here in their mines in back filing or in OB dump even they did not tell how they are disposing their own fly ash.

M/s Hindalco Industries Limited was to provide adequate garland drain along with OB dump with sufficient number of settling ponds to ensure suspended solid free discharge of storm water in rainy season. Hindalco Industries Limited was to comply with the

provisions of notification 2009 for utilization of 25% of fly ash in OB and back filling. They were also required to develop proper Green Belt. In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

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

Where,

EC= Environmental Compensation in Rs

PI= Pollution Index of Industrial Sector

N= Number of days of violation took place

R= A factor in Rs

S= Factor for scale of operation

LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
 2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
 3. R, A factor in Rs is taken 250 only
 4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
 5. LF, has been taken 1.0 for population less than one million
- The CTO issued on 02.01.2020 has condition of fly ash utilization in OB dump and stowing.
 - Date of first observation of non-compliance- 02.01.2020
 - Last date taken for assessment- 30.11.2021
 - Number of days for non-compliance- 698 days

EC in Rs. 2,09,40,000/- (Two Crore, nine lakhs forty thousand) (30,000/-x698)

8. Visit of Gare Palma IV/01 OC Mines- The captive power plant of M/s Jindal Steel & Power Limited,

Dongramau has permission for disposal of its fly ash in Gare Palma IV/01 open cast mines. During visit of the committee on 24th August 2021 it was observed that **fly ash mixed with OB being disposed near Nalah passing in mining lease area.** (PIC- 07) The distance between disposal site and Nalah seems to be less than 500m and during rainy season fly ash may take a way to River kelo through Nalah. The issue has been considered as negligence in selection of site and M/s JSPL has been directed to be present in environmental compensation hearing meeting on 15.09.2021 at Bilaspur with all documents EC, Consent and quantity of fly ash disposed and remediation proposal if any.

On environmental compensation hearing representative from JSPL were present who have been heard and findings recorded that captive power plant of M/s Jindal Steel & Power Limited, Dongramau has permission for disposal of its fly ash in Gare Palma IV/01 open

cast mines. During visit of the committee on 24th August 2021 it was observed that **fly ash mixed with OB being disposed near drain/ Nala (a watercourse) passing in mining lease area. The distance between disposal site and drain seems to be less than 500m and during rainy season fly ash may take a way to River Kelo through drain/ Nala (a watercourse).** The issue has been considered as negligence in selection of site and M/s JSPL has been directed to shift the same on or before 30.11.2021.

On verification on 24-11-2021 we found that fly ash mixed with OB being disposed near drain/ Nala (a watercourse) passing in mining lease area has been removed. M/s JSPL vide its letter dated 28.10.2021 addressed to Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh has informed about removal of OB on 24.10.2021. The committee has also visited the site on 24th November 2021 and found that all OB dump was removed from the site. In view of noncompliance from 24th August 2021 to 24th October 2021 (62 days) EC may be imposed. In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

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

Where,

EC= Environmental Compensation in Rs
 PI= Pollution Index of Industrial Sector
 N= Number of days of violation took place
 R= A factor in Rs
 S= Factor for scale of operation
 LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million

Date of observation of noncompliance- 15.09.2021

Date of observation of compliance – 24.10.2021

Hence EC (in Rs) = 30,000 X 39 = 11,70,000/- (Eleven Lakhs seventy thousand Only)

9. M/s Jindal Power Limited, Tamnar, Raigarh-

It was reported in over sight committee visit on 17.03.2021 about leakage of fly ash slurry from ash dyke of M/s Jindal Power Limited. The committee had suggested M/s JPL to conduct study through a research organization of national repute to determine the stability of the existing ash dyke and take measures required to strengthen as needed. In order to take the status, the oversight committee once

again visited the site on 24th August 2021. Although spot shown by the officials of the JPL we could not observe leakage on that area from the dyke but we are not sure about other part of the dyke. The committee has discussed in details about process adopted for repair of the leakage and directed M/s JPL to submit the authentic report about strength of repairing undertaken and the stability report of the existing ash dyke from research organization of national repute on or before 30-11-2021.

JPL after complying the direction have submitted stability report conducted by NIT Raipur but did not file any documents to show details about process adopted for repair of the leakage or to establish repair conducted by competent person/ authority therefore is liable for Environmental compensation from 17-03-2021 to 24-08-2021

In view of the above non-compliance Environmental compensation is calculated as under-

The environmental compensation (EC) is based on the following formula-

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

Where,

EC= Environmental Compensation in Rs
PI= Pollution Index of Industrial Sector
N= Number of days of violation took place
R= A factor in Rs
S= Factor for scale of operation
LF= Location Factor

Note-

1. Average Pollution Index (PI) 80 has been taken considering Coal Mine & TPP in Red category of Industry
2. N, Number of days for which violation took place is period between the day violation observed and due date of compliance is taken as 30.11.2021 (As the status report is up to 30.11.2021)
3. R, A factor in Rs is taken 250 only
4. S, Factor of scale of operation 1.5 as coal mines and TPP are large units. scale
5. LF, has been taken 1.0 for population less than one million

- The Environmental condition has been violated from 1703-2021
- Date of first observation of non-compliance- 17-03-2021
- Date of compliance taken for assessment-24-08-2021
- Number of days for non-compliance- -161days
- Determination of Environmental Compensation (EC)
- Hence EC (in Rs) = 30,000 X161 = 48, 30,000/- (Forty Eight Lakhs Thirty thousand Only)

10. Calculation of property damage on application submitted by villagers in favour of the applicant against TPPs

Applications were against TRN Energy Pvt.Ltd. and against M.s Mahaveer Energy& Coal Benification Ltd. Although copy of the application are been served on these TPPs but they did not file any reply.

For hearing against these applications, both the parties remained absent. For verification services of concerned Patwari have been taken. As per information provided by the Patwari only 4 persons were found entitled therefore for those persons compensation has been calculated and remaining applications have been rejected.

Calculation of property/ crop damage was done on the basis of area and tentative loss to crop and rate per Quintal

As per report of the area Patwari Govt. has fixed per hector crop 37 quintal and price including bonus Rs.2500/- per quintal of paddy.

The damage claims submitted by the affected villagers and farmers were scrutinized by officials of land revenue departments. They have given the affected area of claimant. Environmental compensation in the shape of damage has been calculated as below damage claim submitted by villager details of affected land is as under-

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	Sh. Ghurauram Rathia Nawapara	381/01	0.076	7030
02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895	408017.5 allowed only Rs.1,11,000/ -as claimed 175287.5 allowed Rs.1,11,000/ -as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

- Note- Damage

Note damage calculated based on productions of 37 quintals per hectare considering rate of crop @ Rs. 2500 per quintal.

- The committee has decided that as environmental compensation / damage claim will be paid by M/s TRN Energy Private Limited to the affected villagers/ farmers as per above list accordingly.

At a glance

Environmental Compensation/ Penalty/Fine have been calculated for non-complying industries and departments. The details are as under-

<i>Sl. No</i>	<i>Name of the industry / department</i>	<i>EC/Penalty/ Fine amount in Rs</i>
01	<i>Principal Secretary, Public Works Department Chhattisgarh Government</i>	<i>1,00,00,000/-</i>
02	<i>Principal Secretary, State Health Department Chhattisgarh Government</i>	<i>1,00,00,000/-</i>
03	<i>M/s TRN Energy Private Limited, Nawapara Raigarh</i>	<i>1,82,40,600/-</i>
04	<i>M/s Mahavir Energy and coal beneficiation Limited</i>	<i>1,42,90,000/-</i>
05	<i>M/s Hindalco Industries Limited Coal Mine</i>	<i>2,09,40,000/-</i>
06	<i>M/s Ambuja Cement Limited Coal Mine (GP IV/8)</i>	<i>75,90,000/-</i>
07	<i>M/s Jindal Steel & Power Limited, Dongramau, Tamnar</i>	<i>11,70,000/-</i>
08	<i>M/s Chhattisgarh State Power Generation Company Limited</i>	<i>75,90,000/-</i>
09.	<i>M/s Jindal Power Ltd, Tamnar</i>	<i>48,30,000/-</i>

Environmental Compensation against TRN Energy PVT. LTD. have been calculated for damage to property of individuals. The details are as under-

S.No.	Name & address of claimant	Affected khasra No	Affected area Hectare	Amount in Rs
01	<i>Sh. Ghurauram Rathia Nawapara</i>	<i>381/01</i>	<i>0.076</i>	<i>7030</i>

02	Sh. Harcharan Rathia & Sh. Malik Ram Rathia Kantagdeeh	09/01 09/02	4.411 1.895	408017.5 allowed only Rs.1,11,000/- as claimed 175287.5 allowed Rs.1,11,000/- as claimed
03	Sh. Karam Singh Rathia	401/01	0.101	9342.5
Total Affected area			6.483	599677.5

8. Final compliance status on 30.11.2021 and recommendations of the Committee are reproduced below:-

“FINAL COMPLIANCE REVIEW STATUS AS ON 30-11-2021

1. Short-term measures

1.1 Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling.

As per compliance report submitted on 07.04.2021 and accepted by Hon'ble NGT in its order dated 24.06.2021 Two SECL mines (IV/2,3) and one JPL mine (IV/1) only are accepting fly ash for disposal in OB dump. Other coal mines in Tamnar and Gharghoda area are not accepting fly ash for disposal in OB dump.

Although Environmental compensation has been assessed but for future they are not exonerated and shall be liable to assessment of Environment Compensation and other legal actions.

CEA vide its letter dated 14.02.2020 has informed about declaration of abandoned mines on recommendation of task force. The list includes 24 abandoned OC mines of Chhattisgarh to be used for filling of fly ash generated from TPP. **The committee has suggested to Chairman, Chhattisgarh Environment Conservation Board for constitution of State Level Committee to decide the mode and quantity of fly ash to be disposed in working/ abandoned mines/quarries in the State. The same committee may also look after the fly ash disposal issues in Raigarh also on priority.**

Oversight committee in its meeting dated 27.11.2020 has decided to write Chairman, CECB for constitution of State level Committee for permitting about utilization of fly ash for reclamation of low lying areas and in stowing of abandoned mines/queries only after ensuring the implementation of guidelines prepared by CPCB as per MoEF&CC notification No.SO 763(E) dated 14-09-1999. The decision was taken for giving effect to observations made by Hon'ble NGT in para 6 of their order 20.11.2020.

*“Further, the applicant has given suggestions by way of written submission filed on 18.11.2020, inter-alia to the effect **that contaminated sites be seen, fly ash dumping in low-lying areas be ensured and such dumping should not be in unscientific manner. The legacy fly ash dumps be remediated.** Air and land pollution due to fire in the coal mines be remedied. Coal transportation by trucks must be done on scientific basis 13 and transportation by conveyor belts be preferred. Road maintenance be improved. Continuous Ambient Air Quality Monitoring Station (CAAQMS) be installed. Steps be taken for recharge of the ground water. Water supply to the concerned villages be provided by pipes.”*

In this context Nodal Officer of the oversight committee has written a letter to Chairman, CECB on 26.02.2021(RD/BPL/NGT OA-104/2018/202) for constitution of State level committee for utilization of fly ash for reclamation of low lying area, and in stowing of abandoned mines/quarries.

In this context, Member Secretary, CG Environment Conservation Board, Raipur, apprised us that State level committee has been constituted a long back and now has been reconstituted on 24.01.2019. This reconstituted committee is termed as monitoring committee constituted by Chhattisgarh Government to monitor the utilization of Fly ash in accordance to MoEF&CC notification SO 2804 (E) dated 03.11.2009. This committee is also responsible to ensure implementation of clauses 7, 8(i) & 8 (ii) of MoEF&CC notification SO 2804 (E) dated 03.11.2009 which reads as:-

“(7) No agency, person or organization shall within a radius of hundred kilometers of a coal or lignite based thermal power plant under take or approve or allow reclamation and compaction of low-lying areas with soil; only fly ash shall be used for compaction and reclamation and they shall also ensure that such reclamation and compaction is done in accordance with

the specifications and guidelines laid down by the authorities mentioned in sub-paragraph (1) of paragraph 3.

(8)(i) No person or agency shall within fifty kilometers (by road) from coal or lignite based thermal power plants, undertake or approve stowing of mine without using at least 25% of fly ash on weight to weight basis, of die total stowing materials used and this shall be done under the guidance of the Director General of Mines Safety (DGMS);

Provided that such thermal power stations shall facilitate the availability of required quality and quantity of fly ash as may be decided by the expert committee referred in subparagraph (10) for this purpose.

(ii) No person or agency shall within fifty kilometers (by road) from coal of lignite based thermal power plants, undertake or approve without using at least 25% of fly ash on volume to volume basis of the total materials used for external dump of overburden and same percentage in upper benches of back filling of opencast mines and this shall be done under die guidance of the Director General of Mines Safety (DGMS);

Provided that such thermal power stations shall facilitate die availability of required quality and quantity of fly ash as may be decided by the expert committee referred in subparagraph (10) for this purpose.”

When there is already one statutory committee for monitoring and facilitating implementation of notification at the respective State Government level, there appears no need for constitution of another committee for the same work in the same field,

*CECB vide its letter number 318 dated 10.05.2021 has made allotment of fly ash disposal in void of Domnara OC mine (Abandoned) of Raigarh but no progress observed on ground, Only one abandoned mine is there for filling of fly ash but the same has been allotted to five companies situated in different area and with different quantities. This allotment has been done in complete violation of “GUIDELINES OF CIL OFFERING MINES VOIDS FOR FLY ASH DISPOSAL The guidelines is a complete code and following that only mines was required to be allotted and compliance should have been made. **CECB should have asked Coal India Ltd to follow their own guidelines from inception of allotment of Mine void till disposal of fly ash and after closure of the site till reclamation.***

1.2 Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously

monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.

District collector, Raigarh has issued letter to concern departments for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly ash. During visit committee has observed restriction on fly ash disposal in low lying areas particularly in agricultural fields of the villages.

Hon'ble NGT in its order dated 20.11.2020 directed that contaminated sites be seen, fly ash dumping in low-lying areas be ensured and such dumping should not be in unscientific manner. The legacy fly ash dumps be remediated. In this context Nodal Officer of the oversight committee has written a letter to Chairman, CECB on 26.02.2021 (RD/BPL/NGT OA-104/2018/202) for constitution of State level committee for utilization of fly ash for reclamation of low lying area, and in stowing of abandoned mines/quarries.

The committee has also directed Regional officer CECB for providing list of locations where fly ash have been disposed unscientifically and creating threat to environment and agricultural fields. In accordance with list provided by CECB, committee has visited Gharghoda area on 25.08.2021. Unscientific disposal of fly ash in low lying areas of Gharghoda is one the major issues taken in the case. The committee has visited few sites of fly ash dumping where proper strengthening and compaction of fly ash has not been ensured by M/s TRN Energy Pvt Limited resulting flow of fly ash in to adjoining fields and drains leading to River. The location of fly ash dumping exits in village Bhengari, Nawapara, Tenda and Kantagdeeh. The committee has visited newly constructed ash dyke near the power plant in Nawapara and observed flow of water along with side of ash dyke leading in the fields of farmers. The committee has also witnessed the breaching and damage, then accordingly instructed the villagers & farmers to submit damage claim application in the office of Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh. The format of application for submitting damage claim has also been provided to villagers/farmers with request to be present during hearing at Bilaspur. M/s TRN Energy Private Limited (2x300MW) thermal power plant is located in village Bhengari, Nawapara (Tenda), Gharghoda, Raigarh. The plant started its commercial production in 2016 with an average generation of fly ash 4000 MT per day. The thermal power has generated approximately

2879126 MT fly ash during January 2016 to March 2021, out of which 58% (16,65,007 MT) has been disposed in low lying area of village Chote Gumda, Bade Gumda, Nawapara, Tenda and Baansmuda. As per detail submitted by the TPP the area used for disposal of fly ash is approximately 17.378 Hectare.

TRN power has created an ash dump as non-compliance of EC conditions outside its ash dyke in the village Nawapara Tenda. There are physical evidences for breaching of mud wall leading to fly ash flowing into adjoining field even situation to fly ash in to neighboring habitants.

On field visit on 24-25.08.2021 we have seen that by the side of State High way unscientific fly ash dump has been found , also adjoining fields have been covered under fly ash dump causing utility loss of those fields. Erosion of the land due to fly ash is clear. Another fly ash dump adjoining to Forest and nalah in personal land of some villager have been seen, due to cracks and land break / erosion from various points water along with fly ash flowing from there is clear the dump is not in low lying area but is on plane ground by the sides of Bargad tree. No guide lines as prescribed since 1999 have been followed. On earlier visit in March 2021 committee found that TRN power has created an ash dump outside its ash dyke in the village Nawapara Tenda .The top of Dump was at least 10 feet above the ground level. It was also observed that because of breaking of mud wall fly ash was flowing into adjoining field. To prevent the same no remedial measures has been taken by the PP. On road side flow we could see the flowing of fly ash in heavy quantity. A pretty big area has been covered under flowing of fly ash from this Dump.

Representative from TRN admits all these OB dumps and contended that after obtaining the permission from land owner and Gram Panchayat, Fly ash dump have been made. Although they brought some papers and made attempt to show that they have not violated the Environmental conditions. But could not produce permission / consent of State Pollution Control Board. The thermal power plant has also submitted copy of study report conducted in 2018 by ISM Dhanbad which recommends about no metal contamination in ground water due to leaching from fly ash disposed in low lying area.

Ministry of Environment and Forests Notification No. S.O. 763 (E) dated 14th September 1999 only permits for reclamation and compaction of fly ash in low lying area in accordance with specifications and guidelines laid down by the authorities as mentioned in clause 3 of that notification. None of the notifications or guidelines give liberty to loose disposal of fly ash that's too above ground level.

The committee has also visited the Sites of Ash Disposal by M/s Mahaveer Energy & Coal Benefication Limited, Biomass based 12 MW power plant located in village Bhengari. The industry generates fly ash by burning of rice husk with coal and use to dump it unscientifically at two locations in village Bhengari. The committee has visited dumping sites on 25th August 2021 and found fly ash dumping in Bhengari village and also in the plant premises. The unscientific disposal of fly ash leads air borne during summer season and washed out during rainy season leading towards surface water body.

Although Environmental compensation has assessed but that will not exonerate these companies from their illegal activities. We relying on judgment rendered by Hon'ble the SUPREME COURT OF INDIA in the matter NIDHI KAIM Vs. STATE OF MADHYA PRADESH, Civil Appeal No. 1727 of 2016, Decided on : 13-02-2017 in which Hon'ble SC has observed that :-

“There is a saying – when wealth is lost, nothing is lost; when health is lost, something is lost; but when character is lost, everything is lost. This is attributed to Billy Graham, an American clergyman, born on 7.1.1918. One cannot be certain, about the above attribution, because the same lesson has been taught in India, since time immemorial, by parents and teachers. The issue in hand, has an infinitely vast dimension. If we were to keep in mind immediate social or societal gains, the perspective of consideration would be different. The submission canvassed, needs to be considered in the proper perspective. We shall venture to derive home the point by an illustration. We may well not have won our freedom, if freedom fighters had not languished in jails ... and if valuable lives had not been sacrificed. Depending on the situation, even civil liberty or life itself, may be too trivial a sacrifice, when national interest is involved. It all depends on the desired goal. The preamble of the Indian Constitution rests on the foundation of governance, on the touchstone of justice. The basic fundamental right, of equality before law and equal protection of the laws, is extended to citizens and noncitizens alike, through Article 14 of the Constitution, on the fountainhead of fairness. The actions of the appellants, are founded on unacceptable behavior, and in complete breach of the rule of law. Their actions, constitute acts of deceit, invading into a righteous social order. National character, in our considered view, cannot be sacrificed for benefits – individual or societal. If, we desire to build

a nation, on the touchstone of ethics and character, and if our determined goal is to build a nation where only the rule of law prevails, then we cannot accept the claim of the appellants, for the suggested societal gains. Viewed in the aforesaid perspective, we have no difficulty whatsoever, in concluding, in favour of the rule of law.”

We recommend that M/s TRN Energy Private Limited and M/s Mahaveer Energy & Coal Benefication Limited shall remove the fly ash dump as seen by the committee during their field visit within 4 months else those dumps shall be removed on the cost of those companies ,by State PCB and removed mataerial shall be given to the concerned company for proper disposal as per law.

- 1.3. Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks.**

Representative from JPL present in stake holders meeting has informed that 44,25,66 MT coal was transported in 2019-2020 & 40,24,274 in 2020-2021 through conveyor belt to JPL. The quantity provided is about 70 % of total coal mined from GP IV/2&3, however coal quantity received for GP IV/2&3 is only satisfies its 25% requirement. Rest of the requirement is met from other coal mines of Chhattisgarh and Orissa. **State PCB shall verify correctness of the declaration by examining companies coal transportation records.**

- 1.4 Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pretreatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms. PHED should do the analysis (major cations/anions/trace elements) of the inlet and outlet sample of the Defluoridation plant installed in the region.**

PHED Raigarh has informed that water testing laboratories are functional at Gharghoda and Raigarh for testing of drinking water quality of the area. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also

in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tap water in village and ensure quality of water in coordination with PHED Raigarh.

In order to ensure and verify the adequate quality of drinking water supply in Village Kondkhel, the committee has also visited Kondkhel village on 24.08.2021 along with applicant, representative of PHED and M/s Hindalco Limited. In the visit, water availability in hand pump as well as taped water supply was found in order. More over National Environmental Engineering Research Institute (NEERI) Nagpur set up network of observation wells in Kondkhel village during 01-02 August 2021. These observation wells network consisting of India Mark II hand pump that are used to measure the ground water level. The ground water level from observation wells network was obtained using Electric Contact Gauge. The ground water level is obtained with respect to below ground level (BGL). The ground water extraction through hand pumps is used for domestic purposes only. The depths to ground water level (BGL-m) in the different observation wells varied between 5.24 m to 14.81 m during first week of August 2021.

Installation of Piezometers and monitoring: All the Coal Mine operators in the region need to install the Piezo meters as per the EC conditions. The installation need to be based on scientific lines and should take into account the depth up to which the mining is envisaged. Monthly monitoring of ground water level should be done by the mine operators.

1.5 *Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information.*

The committee during its field visits has observed installation of CCTV in coal mines and found its satisfactory operation its connectivity with CPCB and CECB should be made. M/s CSPGCL mines have installed two CAAQMS as per instruction and its connectivity with CPCB and CECB is in progress. CECB has also placed order for purchase and installation three CAAQMS in the area but as on 30.11.2021 no station was found operational.

M/s CSPGCL mine has installed two CAAQMS and remaining is not complied. May its installation takes time but on this excuse concerned proponents are not entitled for excuse. CECB to issue directions to concerned

proponents for installation of CAAQMS and for CCTV connectivity with CPCB and CECB.

1.6 Proper repairing and maintenance of roads outside the mine area to ensure smooth movement of trucks and other load carrying vehicles.

Although Environmental Penalty / Fine has been assessed on Principal Secretary, PWD State of CG but he is not exonerated from complying earlier directions. He should comply those directions else shall be liable again for Penalty/Fine and other legal coercive measures.

1.7 Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case.

Although Environmental Penalty / Fine has been assessed on Principal Secretary, Health, State of CG but he is not exonerated from complying earlier directions. He should comply those directions else shall be liable again for Penalty/Fine and other legal coercive measures.

1.8 Strict vigilance by MOEFCC for green belt development compliance as per EC conditions.

Yes. On Papers although Project Proponents have tried to show that they are doing the plantation work, but there is distinction between plantation and Green belt development therefore as per mining plan coal mines shall develop green belt and on OB dumps shall grow prescribed species of tree and as per CPCB guide lines 2019 TPP shall develop green belt.

1.9 We also recommend that no further conversion of UG mines to Open Cast mines be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major 4 noncompliance in pollution control and social cost (rehabilitation).

Nodal officer of the committee has informed accordingly to Member Secretary (IA-Coal) Ministry of Environment Forests &CC vide letter number RD/BPL/NGT OA 104/2018/72 dated 18th September 2020. However Honorable NGT Order dated 27-02-2020 in Para 6 have observed; We are of the view that since serious deficiencies have been found and there is potential for damage to the environment as observed in the report, the 'Precautionary' and 'Sustainable Development' principles require that any further expansion or new projects in the area should be allowed after thorough evaluation only

and mechanism for remedial measures should be in place, including oversight of measures for health mitigation.

2.0 Long-term measures

2.1 Commissioning a detailed and comprehensive environmental load carrying capacity study to be carried out by a reputed environmental research institute over a 24 month period. Mode of commissioning of this study may please be decided by the Hon'ble NGT and necessary directions may please be issued.

In the meeting of the oversight committee held on 16.10.2020, CPCB has advised CECB to include the project cost in EC fund sponsored project. CECB vide its letter dated 31.03.2021 has invited proposal from NEERI, Nagpur for conducting Carrying capacity study in Tamnar & Gharghoda Blocks of District Raigarh. The Technical and Commercial proposal was submitted by NEERI, Nagpur which is still under consideration in CECB.

2.1.1 The study must cover dimensions of air pollution (especially PM2.5), water pollution and ground and surface water depletion, soil contamination, forest and biodiversity loss, and social and health impacts.

Action by CECB to ensure its incorporation during finalization of proposal submitted by NEERI, Nagpur for carrying capacity study.

2.1.2 Moreover, given the geography of the region, the study must assess the carrying capacity separately for two different sub regions: the northern Tamnar (coal mining related) block and Gharghoda block. Moreover, since Chhal open cast mine located in southern Dharamjaigarh block is located on the bank of Mand River and therefore in an eco-sensitive zone, a baseline study of this region may also be carried out. The southern Tamnar subregion has already been studied for environmental load carrying capacity by IIT Kharagpur (report submitted to CECB in 2018) and it has already recommended strict regulation of any further industrial development in particular parts of the sub-region through a high-level committee.

Action by CECB to ensure its incorporation during finalization of proposal submitted by NEERI, Nagpur for carrying capacity study.

2.1.3 CECB shall ensure that within 4 month the studied for environmental load carrying capacity pending with it shall be allotted according to legal process and allottee should ensure that after allotment study should be

completed and report submitted within 24 months. Both of them should keep in mind that default if caused then defaulter shall be liable under legal consequences.

- 2.2 To reduce the pollution and other impacts caused by road transport of coal and other minerals, directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail or closed conveyor belt only.**

IRCON International Limited, that 44 Km Railway line work from Kharsia – Gharghoda – Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. Rail line work from Karichhapar – Kurumkela – Dharamjaygarh will be completed by December 2021. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 03 coal siding and made 01 siding operational, 02 more siding will be made operational by December 2021. As per data received from major mining company of the area i.e. SECL, it is reported that 35% coal transport increase has been observed in comparison to last financial year 2019-2020. It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2021.

- 2.3 Condition of greenbelt development may be incorporated at TOR stage of EC application to ensure that greenbelt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by MOEFCC. Further, while granting TOR, EAC should specify the location of the greenbelt to provide buffer between coal mine and human settlements, and specify a sufficient width of the greenbelt for the same.**

Copy of Hon'ble NGT order has been provided to MoEF&CC through its representative of the committee.

- 2.4 Ministry of Coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and back-filling as per fly ash notification of 2009.**

In this context, Member Secretary, CG Environment Conservation Board, Raipur, apprised us that State level committee has been constituted a long back and now has been reconstituted on 24.01.2019. This reconstituted committee is termed as monitoring committee constituted by Chhattisgarh

Government to monitor the utilization of Fly ash in accordance to MoEF&CC notification SO 2804 (E) dated 03.11.2009.

The committee seems to be responsible for obtaining specification of quality of fly ash from expert committee referred in sub paragraph (10) for this purpose. As per sub paragraph (10) ministry of coal for this purpose shall constitute an expert committee comprising of representative from fly ash unit, Department of Science and Technology, Ministry of Science and Technology, Director General of Mines (DGMS), Central Mine Planning and Design Institute Limited (CMPDIL), Ministry of Environment Forests & CC, Ministry of Power, Ministry of Mines and Central Institute of Mining and Fuel research (CIMFR).

Hon'ble NGT in its order dated 24.06.2021 on point no 6 has considered the field observations made in report dated 17.03.2021 about violation found on the JPL, JSPL, Hindalco Industries Limited, Mahaveer Energy and coal Benefication and M/s Ambuja Cement and M/s CSPGCL coal mines. The committee has addressed all issues during its site visit on 24th and 25th August 2021 and concerns were given opportunity of hearing on 14th and 15th September 2021.

1. The following observations made in the report dated 17.03.2021 has been found resolved. Fly ash dumping with in GP IV/01, outside mine void
2. Fly ash dumping with in GP IV/02 & 03, outside mine void
3. Leakage of fly ash slurry from JPL ash dyke
4. Fire in coal mine/ coal dump Gare Pelma IV/02&03
5. Discharge of untreated waste water from M/s Hindalco Industries Limited Coal mine
6. Inadequate quality of drinking water supply to Kondkhel village
7. Making abandoned mines available for disposal of fly ash

FOLLOWING ARE THE MAJOR RECOMMENDATION TO MEET OUT THE PROBLEM OF POLLUTION DUE TO TRANSPORTATION AND FLY ASH DISPOSAL:-

1. **Coal brought from outside CG to Tamnar and Gharghoda area by TPP should be carried by train upto nearest Railway siding, may it be booked from any Rly station. From Rly siding to TPP coal may be carried through mechanically operated closed Goods Vehicle or through manual operated Tarpoline covered Goods vehicle. If any exigency arises State PCB may for limited period relax this condition.**

2. **Coal bought from inside CG to Tamnar and Gharghoda area by TPP should be carried by train upto nearest Railway siding if train connectivity is available. From Rly siding to TPP coal may be carried through mechanically operated closed Goods Vehicle or through manual operated Tarpoline covered Goods vehicle. If train connectivity is not available coal may be carried through mechanically operated closed Goods Vehicle or through manual operated**
3. **Tarpoline covered Goods vehicle. If any exigency arises State PCB may for limited period relax this condition Fly ash is a byproduct of TTP and produced as a result of Coal/lignite Burning. Fly ash is hazardous to environment. For its disposal MoEF has from time to time issued notifications and as per notification 2009 one of the mode is stowing of mines using at least 25% of fly ash on weight to weight basis of the total stoving material used and 25% of fly ash on volume to volume basis on the total material used for external dump of over burden and same percentage in upper benches of back filling of open cast mines, this utilization is to be done under the direction of DGMS.**
4. **Coal mines although are legally and morally bound to accept minimum above quantity of fly ash from TPP. To achieve this target it is recommended that when coal is sold by the coal company to TPP there should be a condition in the agreement to sell that at least 25 % Fly Ash of the coal sold, should be accepted by the coal company (Seller) from TPP (purchaser) failing which coal company shall be liable for civil action and other legal measures.**
5. **Before approval of mining plan by the approving authority, approving authority should ensure incorporation of fly ash disposal as required under notification 2009 clause 8(i) and 8(ii).**
6. **Till carrying capacity report comes, after taking due care to environment, authorities may grant mines, lease, consent permissions, EC etc. After receipt of the carrying capacity report, the same should also be taken as Governing factor.”**

Analysis, Findings and Directions

9. We have given due consideration to the report. The Committee has comprehensively gone into the matter in the light of earlier proceedings. It has recorded compliance status of earlier directions in respect of short term and long-term measures and made recommendations to remedy the situation. It has also assessed compensation for the past violations. It has been then concluded that payment of compensation does not exonerate

the industrial entities and the authorities from remedying the situation for future.

10. As regards compensation, we are broadly in agreement with the violations found and recommendations for compliance except that compensation is not adequate and recommendation for carrying capacity study needs to be expedited.

Compensation liability

11. As noted above, the Committee has held by two Departments of the State (PWD and Health) and seven industrial units responsible for violations, after considering their viewpoint. We agree with the findings of violations. Plea of lack of budget by the PWD to prevent dust pollution is untenable as clean environment is fundamental right under Article 21. Sustainable Development, Precautionary principle and polluter pays principles are to be statutory enforced by this Tribunal under sections 15 and 20 of the NGT Act. If budget is not available, the same has to be collected from the concerned polluters or otherwise arranged by the State and for lack of budget, environment and public health cannot be damaged. This is also the crux of the public trust doctrine which sustains good governance. Once pollution is being caused to the detriment of public health and environment, the State can be held accountable for its failure to take necessary steps. Thus, PWD has rightly been held liable to pay compensation for continuing damage to the public health and environment by failure to maintain/construct road in the area resulting in air pollution. Similarly, if the public health department is not providing health facilities to people affected by pollution, the Health department has to be held accountable as held by the Committee. TRN has been held responsible for unscientifically handling/storing flyash, adversely affecting

agricultural lands. Damage to dyke has been found. In the case of Mahavir, dumping of flyash in low lying area has been found contrary to guidelines and specifications. The flyash is becoming airborne and flowing in drain, contaminating groundwater. Ash dump is against EC conditions and applicable SOP. CSPGCL has been found dumping flyash on both sides of road and dumping sludge waste on and drain, to the detriment of environment and public health. Ambuja has failed to provide garland drain and found dumping OB on both sides of public road. Ambuja has created OB dump and not developed necessary greenbelt. Gare Palma has dumped flyash and OB in drain meeting river Kelo. Jindal has been held liable for violations of flyash dyke which was later remedied.

12. In view of deficiencies found, quantum of compensation assessed is inadequate. It is based only on number of days of violation, without reference to cost of remediation or financial capacity of the PPs as required inter-alia in *M. C. Mehta & Anr. v. Union of India*¹, *Sterlite Industries (India) Ltd. v. Union of India*² and *Goel Ganga Developers India Pvt. Ltd. v UOI*³. Deterrent element has also to be included so that causing of pollution is not profitable. The compensation has been assessed only for the days of violation was found during inspection and not for the past violations. The formula evolved by CPCB may be a floor level determination of compensation but the same cannot be universal for all situations and needs to be supplemented by considering the cost of remediation and financial capacity of the PPs as required in terms of law laid down by the Hon'ble Supreme Court which is binding on all authorities. Since this deficiency in compensation assessment is happening repeatedly, it will be

¹ (1987) 1 SCC 395

² (2013) 4 SCC 575

³ (2018) 18 SCC 257

appropriate that CPCB issues revised guidelines to all the State PCBs/PCCs on this subject.

13. I.A. No. 40/2022 has been filed on behalf of M/s Ambuja Cement Limited objecting to the compensation assessed by the Oversight Committee. We do not find any merit therein. It is submitted that failure to dispose of fly ash is for want of approval by the DGMS for use of fly ash in OB dump, void and back filling. The joint Committee has not appreciated that there is increased demand for fly ash in view of letter dated 22.09.2021 issued by the Ministry of Power and para 13 of the Notification dated 31.12.2021 requiring the TPPs to undertake backfilling of ash in mines. Since no abundant mines are available to the industry, it is not accountable for not utilizing the fly ash. We are unable to accept the objection. The Committee has found failure to develop garland drain, as required and unscientific storing and dumping of OB on sides of public road which certainly is a ground for holding the unit accountable on polluter pays principle. As regards letter of the Ministry of Power dated 22.09.2021, while dealing with an identical issue vide order dated 18.01.2022 in OA No. 164/2018, *Ashwani Kumar Dubey vs. Union of India & Ors.*, this Tribunal has held that the said letter is not to be enforced, being against the spirit of Notification dated 31.12.2021, obstructing speedy utilization of fly ash. The Tribunal also held that Notification dated 31.12.2021 extending time limit for disposal of fly ash could not be interpreted to mean that there is no accountability for scientific handling of such fly ash till its disposal. Operative part of the order is reproduced below:-

“1to16....xxx.....xxx.....xxx

17. With regard to past violations generally, we leave the issue of compensation determination to the joint Committees of CPCB, State

PCB and District Magistrate within next three months, following due process. Compensation determination must be based on principles laid down inter alia in M.C.Mehta, (1987) 1 SCC 395, Sterlite (2013) 4 SCC 575 and Goel Ganga (2018) 18 SCC 257, having regard to the period of violation and financial capacity of the unit. Mere days of violations are not conclusive without reference to financial capacity of the units. Directions already issued on the subject will be treated as final as far as this Tribunal is concerned, **subject to final orders of the Hon'ble Supreme Court in appeals filed by the concerned units, if any.**

.....

19. The TPPs have referred to notification dated 31.12.2021 extending timeline for utilisation of legacy fly ash for 10 years, subject to scientific management and subject to 100% utilization on average of three years and not less than 80% in any given year. We are not called upon to express any opinion about the validity of Notification dated 31.12.2021. It may appear to be a retrograde step in the face of quantity of fly ash noted earlier and continuing damage to the environment and public health unless the notification is properly understood and interpreted so as to remedy the situation. **The object of the notification is not to nullify the mandate of the Air Act or standards of air quality or other norms but to provide further opportunity beyond the earlier timelines, consistent with the mandate of complying with laid down environmental norms which are part of right to life. Violation of laid down air quality and other norms cannot and is not sought to be condoned. Nor there is any bar against remedying deteriorated environment of polluted industrial areas, in the light of recommendations based on ground verification. Thus, issue of violation of norms due to unscientific management and handling of fly ash remains including action against persons responsible for pollution and accidents, apart from issue of compliance of specific conditions of notification dated 31.12.2021 remains.**

20. **As noted earlier, situation caused by failure of the TPPs to manage fly ash scientifically and to utilize the same within reasonable time is highly detrimental to public health and emergency measures in Mission Mode are required. Even the Notification dated 31.12.2021 recognizes the alarming situations which is clear from the text of the Notification itself.....**

21. **In the light of above discussion, it is patent that remedial measures are required in terms of recommendations set out in para 15 above in respect of individual TPPs or other projects as well as general issues applicable to all the TPPs such as timely installation of air pollution control and monitoring devices, timely utilisation and disposal of fly ash, scientific designing of fly ash dykes and safety norms, addressing public health issues, steps for restoration of deteriorated environment by bringing down CEPI scores in the entire area, restoration of Rihand Reservoir and other damaged/degraded areas, providing arrangement for public health facilities, including water supply and by coordinated and concerted efforts and high level monitoring. The PP are to be accountable**

for past violations and are under obligation to remedy the violations and follow the norms for future. The regulators are to enforce the same and higher authorities are to oversee. Accordingly, following direction are issued:

- i. We direct constitution of a fly ash management and utilization Mission to be jointly headed by the Secretaries, MoEF&CC, Coal and Power, GoI and Chief Secretaries of UP and MP. The Secretary, MoEF&CC will be the nodal agency for coordination and compliance. The Mission will coordinate and monitor issues relating to handling and disposal of flyash as well as all associated issues in the light of above discussion. It may hold its first meeting within one month to take stock of the situation and to prepare action plan in the light of recommendations of Joint Committees quoted earlier in para 15 above in respect of individual plants as well as road map generally. Thereafter, it may meet atleast once in a month for one year to review the progress. The resolutions of the Mission and quarterly progress may be placed on the website of MoEF&CC for information of the stake holders and inhabitants in the area. The Mission will be free to interact with the concerned Government Departments/ Expert institutions/ individuals/other stakeholders. The Mission may in its first meeting require voluntary financial contribution by all the projects in proportion of the financial capacity of the projects out of CSR funds or otherwise. The contribution, alongwith compensation which may be collected may be credited to a separate environment restoration account for restoration of environment and relief to the victims of damage to the environment in such manner as may be found necessary by the Mission. Any victim or aggrieved party will be free to approach the Mission for providing such relief. The Mission may also consider the safeguards laid down in the Notification dated 31.12.2021, particularly for safety audits of the ash dykes which should be conducted particularly for structural stability, as far as possible within six months. Advisory issued by the Ministry of Power dated 22.9.2021 will not be enforced being against the spirit of notification dated 31.12.2021 and obstructing much needed speedy utilisation/disposal of legacy flyash. The Mission may evolve mechanism for interaction with stake holders, including associations of brick kiln owners. Guidelines be also issued for siting, design and engineering standards for the location, disposal, maintenance and regulation of Ash Ponds as breach of a fly ash ponds result in great disaster. Public health and risk impact assessment in the areas of operation of TPPs and generators of fly ash may be got conducted. The Mission may also monitor scientific management and utilization of fly ash by power projects outside Singrauli and Sonebhadra, in coordination with Chief Secretaries of concerned States and adopting safety measures for ash dykes, installing devices to control air pollution, (including FGDs, OCEMS) in a time bound**

manner and restoration of environment and public health. The Mission may also consider use of beneficiated coal. It may in particular consider on-site and off-site crisis management plans with regard to fly ash ponds and dykes. As noted earlier, legacy fly ash is 1670.602 Million Tonnes as on 31.12.2021 and data of ash generation and utilization of legacy fly ash is as follows:

“Summary of Ash Generation and Utilization during year 2020-21

No. of Thermal Power Stations:	191
Capacity (MW):	2,13,030 MW
Coal consumed :	672.130 Million Tonnes
Fly Ash Generation:	222.789 Million Tonnes
Fly Ash Utilization:	205.098 Million Tonnes
Percentage Utilization:	92.06%
Legacy flyash:	1670.602 Million Tonnes

The Committee of Secretaries, in coordination with PPs and statutory regulators, may draw a roadmap for utilization and disposal of entire legacy fly ash for Sonbhadra and Singrauli areas as well as for all the Power Plants located in clusters or standalone with tagging the sources to utilize fly ash on voluntary and compulsion mode for which required mechanism be laid down.

- ii. With regard to past violations, the PPs remain liable and the Joint Committee of CPCB, State PCB and jurisdictional District Magistrates may determine compensation following due process, on the principles laid down inter alia in *M.C. Mehta, (1987) 1 SCC 395*, *Sterlite (2013) 4 SCC 575* and *Goel Ganga (2018) 18 SCC 257*, having regard to the period of violation and financial capacity of the unit. The PPs may take remedial measures as per recommendations of the Committee and as per law, failing with coercive measures for continuing or future violations be taken by concerned authorities.
- iii. Statutory regulators may take action in terms of need for compliances in the light of recommendations with regard to individual Plants as well as generally so as to require the concerned PPs to comply, failing which coercive measures be taken by the statutory regulators in accordance with law.
- iv. In respect of incident dated 10.04.2020, compensation paid to heirs of the deceased at the rate of Rs. 10 lakhs per death is increased to Rs. 15 lakhs on principles laid down inter alia in *Sarla Verma (2009) 6 SCC 121* and *Uphaar Cinema (2011) 14 SCC 481*. We direct the remaining amount to be paid within one month. This order will not debar the heirs of the victims to claim higher compensation by approaching appropriate forum. If the salaries to persons appointed as compensation to the victims are below minimum wages, the PP may ensure compliance of law on the subject which may be also looked into by the concerned Labour Departments of the State of UP and MP. The statutory

regulators may take further remedial action in terms of recommendations of the Committee in OA 148/2020, quoted earlier for restoration of environment and preventing such incidents.

- v. With regard to breach of Rihand Reservoir also, further remedial measures be taken in terms of recommendations on the subject, quoted in para 15 above.”*

14. Similarly, we do not find any merit in the reply filed on behalf of Mahavir Energy & Coal Benefication Limited, against proposed compensation. It is submitted that notification issued by the MoEF&CC under Section 5 of the Environment (Protection) Act, 1986 for utilization of fly ash from coal or lignite based Thermal Power Plant does not apply to the said industry as the said industry is not using coal or lignite but biomass.

15. This stand cannot be accepted. As seen earlier, Mahavir has been found dumping flyash unscientifically in low areas against specifications and guidelines which are becoming airborne causing pollution and flowing in drain contaminating ground water. Ash dump is in violation of SOP and EC conditions. Thus, whatever be the fuel used and *dehors* the notification of the MoEF&CC referred to by the applicant, scientific handling and disposal of fly ash is mandate of 'Precautionary' principle of Environmental Law for protection of environment. In view of specific violations causing air and water pollution in violation of EC conditions, the stand of the industry is untenable and is rejected.

16. Having regard to overall factual situation discussed above, while directing compensation assessed by the Committee be deposited as an interim compensation with the State PCB within two months, for restoration of the environment, we direct the State PCB to put M/s TRN Energy Private Limited, Nawapara Raigarh, M/s Hindalco Industries

Limited Coal Mine, M/s Jindal Steel & Power Limited, Dongramau, Tamnar, M/s Chhattisgarh State Power Generation Company Limited and M/s Jindal Power Ltd., Tamnar, PWD and Health Departments through the Chief Secretary, Chhattisgarh to notice of these proceedings with view to provide them opportunity to show cause why higher compensation be not determined, having regard to the said violations, having regard to their financial capacity. M/s Ambuja Cement Limited Coal Mine (GP IV/8) and M/s Mahavir Energy and Coal beneficiation Limited already represented in today's proceedings are put to notice through appearing counsel. The said entities may file their response, if any, within one month time from date of receipt of notice. The individuals who have been held entitled to compensation may be paid compensation out of the amount deposited. The State of Chhattisgarh and other entities may remedy the violations in terms of the observation of the Committee and file an affidavit of compliance failing which they will be held liable for further compensation.

Further recommendations about remedial measures

17. Further, the recommendation of the Committee in respect of short term and long-term measures need to be complied with by the industries in question as well as by the State of Chhattisgarh. This may be overseen by the joint Committee if any continuing violations founds, the violators will be held accountable by way of prosecution and liable to pay compensation.

Carrying capacity study

18. With regard to carrying capacity study, we are of the view that observation in para 2.1.3 of the Committee of requiring such study within 24 months cannot be accepted. The data is already available on the basis of which carrying capacity can be studied within three months. This may

be got done by CPCB and State PCB with the assistance of any other experts/ agencies. Funds available with CPCB/State PCB may be utilised, subject to further orders.

Conclusion

19. Above resume of discussion shows that there is continued damage to the environment and public health by indiscriminate storing, transportation and disposal of fly ash in District Raigarh in Chhattisgarh. Remedial action has been duly identified in form of short-term and long-term measures but the action so far taken is not adequate. Absence of health facilities for the victims is unfortunate and needs to be remedied. Absence of suitable roads in the area added to the problem in the form of continued air pollution and even road accidents. This needs to be remedied by the concerned departments, including PWD and health Departments of the State. The industrial units have failed to follow the laid down environmental norms as per EC/Consent conditions which include requirement to comply with the Water and Air Acts. Wherever CCTV cameras and CAAQMS have still not been installed, the same need to be complied.

Directions

20. To sum up, our directions are:

- (a) The State of Chhattisgarh and concerned Industrial units may deposit assessed compensation as interim compensation within two months, to be utilised for restoration of the environment, as per plan to be got prepared and executed by the Committee.
- (b) Remedial measures be taken by the CPCB, State PCB, State of Chhattisgarh and the concerned Industrial units and the

authorities in the light of report of the Committee and observations of this Tribunal, hereinabove.

- (c) The State PCB may put the concerned industrial units to notice of these proceedings other than those who have put in appearance in the light of observations in Para 16 above, to enable the State and such units to file their response, if any.
- (d) In the light of order of this Tribunal dated 18.01.2022 in OA No. 164/2018, *Ashwani Kumar Dubey vs. Union of India & Ors.* quoted above in Para 13, compensation may be redetermined, subject to final orders of the Hon'ble Supreme Court in Appeal, if any, filed by the affected parties.
- (e) Having regard to aggravated adverse impact of the fly ash during the summer season, the State PCB may take appropriate remedial safeguards by issuing appropriate directions to the Project Proponents in question on the subject. For suppression of fly ash dust emissions, sprinkling be ensured utilising treated water and refraining from use of ground water or fresh water in view of already depleted level of groundwater.
- (f) In view of order of this Tribunal in OA No. 164/2018, *Ashwani Kumar Dubey vs. Union of India & Ors.*, quoted earlier, TPPs and other projects have to install requisite devices, take steps for timely utilization of disposal of fly ash, scientific designing of fly ash dykes, address issues relating to public health and restoration of deteriorated environment, providing water supply to affected persons and higher-level monitoring by the statutory regulators. Fly Ash Management and Utilization Mission constituted by the Tribunal headed by the Secretary, MoEF&CC may also look into the issues with regard to fly ash management

and utilization in Raigarh District. There has to be executable time bound plan to remove fly ash in Raigarh District for which a road map be prepared by the joint Committee and may also be overseen by the Mission in its next meeting, in coordination with concerned authorities.

- (g) Consistent with the Notification dated 31.12.2021 issued by the MoEF&CC, audit of fly ash generation and management be got conducted within three months in respect of each unit generating fly ash in Raigarh District.
- (h) CPCB may issue necessary guidelines to all PCBs/PCCs on determination of compensation in the light of observations in para 12 above.
- (i) Any other victim of Raigarh District adversely affected by the operation of the TPPs with respect to fly ash in Raigarh District to put forward their claim, if any, with the District Magistrate, Raigarh, within two months which may be looked into by the joint Committee.
- (j) The District Environment Plan of Raigarh District may cover all above aspects appropriately so as to be addressed in execution of District Environment Plan in association with stakeholders.
- (k) The joint Committee may ensure that there is effective monitoring mechanism to address the issues on continuous basis.

21. Report of compliance status as on 30.06.2022 may be filed by the joint Committee by 15.07.2022 which may also be uploaded on the websites of CPCB and State PCB for response of affected parties, if any, by 31.07.2022.

List for further consideration on 05.08.2022.

IAs stand disposed of in view of above order.

A copy of this order be forwarded to MoEF&CC, CPCB, Chief Secretary Chattisgarh, State PCB and District Magistrate, Raigarh by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

February 15, 2022
Original Application No. 104/2018
(I.A. Nos. 37/2022 & 40/2022)
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