

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...Applicant

VERSUS

State of U.P. & Ors.

...Respondents

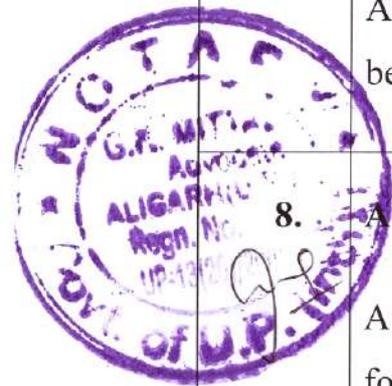
INDEX

S. NO.	PARTICULARS	PAGE NO.
1.	Updated Action Taken Report on behalf of Respondent No. 6 in compliance with Order Dated 13.11.2025 in O.A. No. 537 of 2022 passed by the Hon'ble National Green Tribunal along with supporting affidavit.	1-9
2.	ANNEXURE R-1 A copy of the order dated 13.11.2025.	10-11
3.	ANNEXURE R-2 A copy of the Reply dated 17.02.2023	12-86

G. K. MITTAL
ADV. Aligarh (U.P.)



4.	ANNEXURE R-3 A copy of the ATR dated 20.05.2023.	87-110
5.	ANNEXURE R-4 A copy of the Additional Response dated 30.03.2024.	111-120
6.	ANNEXURE R-5 A copy of the Additional Reply dated 22.07.2025.	121-258
7.	ANNEXURE R-6 A copy of the photograph showcasing 400 plants that have been planted along the railway siding..	259
8.	ANNEXURE R-7 A copy of the photographs showcasing usage of tarpaulin for covering the clinker trucks.	260
9.	ANNEXURE R-8 A copy of the photographs showcasing that air borne dust is being controlled by water sprinkling which is done regularly and usage of anti-smog guns.	261
10.	ANNEXURE R-9 A copy of monthly report for Ambient Air Quality Monitoring and Ambient Noise monitoring undertaken by	262-267



	the Respondent No. 6.	
11.	Proof of Service	268



THROUGH

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 537 OF 2022

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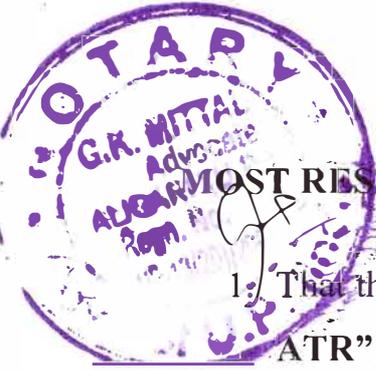
UPDATED ACTION TAKEN REPORT ON BEHALF OF RESPONDENT NO. 6 IN COMPLIANCE WITH ORDER DATED 13.11.2025, IN O.A. NO. 537 OF 2022 PASSED BY THE HON'BLE NATIONAL GREEN TRIBUNAL ALONG WITH SUPPORTING AFFIDAVIT.

MOST RESPECTFULLY SHOWETH

1. That this updated Action Taken Report (hereinafter referred as "Updated ATR") is filed on behalf of the Respondent No. 6, Project Proponent, i.e., Mangalam Cement Ltd. in furtherance of the order dated 13.11.2025 of the Hon'ble National Green Tribunal in the matter O.A. No. 537 of 2022.

A copy of the order dated 13.11.2025 has been attached herewith and marked as ANNEXURE R-1.

2. That previously, Respondent No. 6 has filed Reply dated 17.02.2023, ATR



dated 20.05.2023, and Additional Response dated 30.03.2024 and the Additional Reply dated 22.07.2025. The Hon'ble National Green Tribunal vide its order dated 13.11.2025 directed the Respondent No. 5, 6, 7 and 8 to file additional responses giving details regarding all remedial measures taken by them to prevent and control air pollution generated in the course of transportation of the material by Respondent No. 7 and 8 from the railway siding to industrial units of Respondent No. 5 and 6. Respondent No. 5 and 6 were also directed to mention the amount spent by Respondents No. 5 and 6 on protection and improvement of environment along the access/ transportation route from the railway siding to the industrial units.

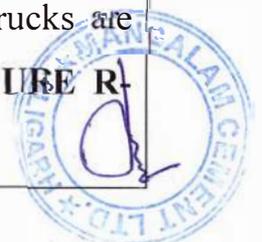
A copy of the Reply dated 17.02.2023 has been attached herewith and marked as **ANNEXURE R-2**.

A copy of the Additional Response dated 30.03.2024 has been attached herewith and marked as **ANNEXURE R-3**.
A copy of the ATR dated 20.05.2023 has been attached herewith and marked as **ANNEXURE R-4**.

A copy of the Additional Reply dated 22.07.2025 has been attached herewith and marked as **ANNEXURE R-5**.

3. That following remedial measures are being undertaken by No.6 to prevent and control air pollution generated in the course

S. No.	Measures Undertaken	Particulars
1.	Environmental Protection and Dust Control	a. 400 plants have been planted along the railway siding. (ANNEXURE R-6); b. To prevent air pollution, clinker trucks are covered with tarpaulin (ANNEXURE R-7);



		<p>c. Air borne dust is being controlled by water sprinkling which is done regularly and anti-smog gun is also being deployed. (ANNEXURE R-8);</p> <p>d. Monthly Ambient Air Quality Monitoring and Ambient Noise monitoring is being undertaken by the Respondent No. 6 (ANNEXURE R-9).</p>
2.	Other initiatives	<p>a. 100 blankets, sarees and umbrellas were distributed in nearby Chherat and Kalupura village.</p> <p>b. On the demand of the Gram Pradhan Chherat Aligarh, the drain was cleaned with the company's JCB.</p> <p>c. Water tanker was supplied as per the requirement of Gram Pradhan Chherat village.</p>

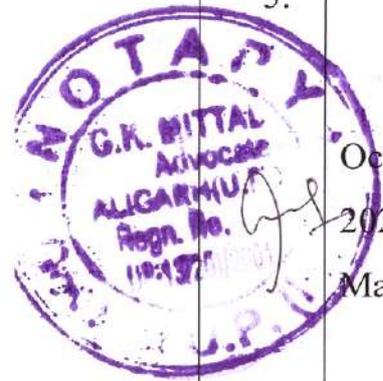


3. Additionally, it is submitted that following CSR activities have been undertaken by the Answering Respondent:

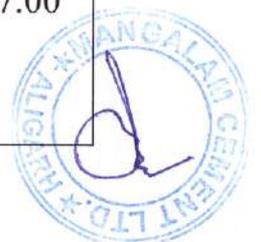
Sr. No.	Year	CSR Activities Location	CSR Activities Details	Amount
1.	April 2024 - September 2024	Aligarh	Poshanhar Potli for TB Patient, Aligarh. The said scheme has been initiated under the National TB Elimination Program and to support tuberculosis patients	Rs. 102000.00



			4	
2.	April 2024 - September 2024	Aligarh	Plantation maintenance expenses UPSIDA / MCL	Rs.441654.00
3.	April 2024 - September 2024	Aligarh	Water tanker expenses for water spray.	Rs. 196250.00
4.	April 2024 - September 2024	Aligarh	Plantation expenses for Miyawaki	Rs.12000.00
5.	October 2024 - March 2025	Aligarh	Poshanhar Potli for TB Patient, Aligarh. The said scheme has been initiated under the National TB Elimination Program and to support tuberculosis patients	Rs. 51000.00
6.	October 2024 - March 2025	Aligarh	Blanket for needy / Poor people	Rs. 26,000.00
7.	October 2024 - March 2025	Lucknow	Sports Promotion	Rs.10000.00



8.	October 2024 - March 2025	Aligarh	Poshanhar Potli for T B Patient, Aligarh.	Rs. 51,000.00
9.	October 2024 - March 2025	Aligarh	Poshanhar Potli for T B Patient, Aligarh.	Rs. 60,000.00
10.	October 2024 - March 2025	Aligarh	Plantation maintenance expenses UPSIDA / MCL	Rs.461522.00
11.	October 2024 - March 2025	Aligarh	Water tanker expenses for water spray	Rs.108125.00
12.	April 2025 - September 2025	Aligarh	Plantation expenses for Miyawaki	Rs.8000.00
13.	April 2025 - September 2025	Aligarh	Plantation of 400 Ashok Trees at Harduaganj Railway Siding	Rs.46000.00
14.	April 2025 - September 2025	Aligarh	Plantation maintenance expenses UPSIDA / MCL	Rs.432047.00



15.	April 2025 – September 2025	Aligarh	Water tanker expenses for water spray.	Rs.108125.00
16.	October 2025 to March 2026	Aligarh	Cervical cancer vaccines for district girls.	Rs. 25000.00
17.	October 2025 to March 2026	Aligarh	RCC Road Work from MCL Main Gate to Bitumen kalupura Road	Rs.958000.00
18.	October 2025 to March 2026	Aligarh	Strengthening & Widening of Existing Road	Rs.1503959.00
19.	October 2025 to March 2026	Aligarh	LED Street Light Installation of Kalupura Road	Rs.45650.00
20.	October 2025 to March 2026	Aligarh	Contribution for Nutritional Packets from CSR fund (SAM/MAM/ANEMIC children)	Rs. 106876.00



4. Moreover, the following measures⁷ are proposed as part of the CSR initiative in furtherance of Environmental Development:

S. No.	Year	CSR Activities Location	Particulars	Amount (In Rs.)
1	Oct 2025 to March 2026	Aligarh	Civil work of Mochhdham at village Kalupura.	125000.00
2	Oct 2025 to March 2026	Aligarh	Civil work of Mochhdham at village Chherat.	125000.00

5. That the Respondent No.6 company has taken all best available measures to mitigate air pollution and has planted Ashoka trees in order to develop a green belt along the railway siding.
6. That the annexures annexed to the present additional response are true copies of their respective originals.
7. It is also respectfully submitted that a balance has to be met between economic development and environmental pollution. In instant case, adequate measures have been taken by the project proponent to mitigate air pollution in a proactive manner.
8. Additionally, it may be noted that if any commercially viable new technology is introduced or is available, Respondent No. 6 will endeavour to use it in the best possible way to control the air pollution caused by the transportation of clinker.



THROUGH

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G.K. Mittal
G. K. MITTAL
NOTARY, Aligarh (U.P.)

8

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 537 OF 2022

**IN THE MATTER OF:**

Mukesh Kumar Chauhan

...APPLICANT

VERSUS

State of U.P. & Ors.

...RESPONDENTS

AFFIDAVIT

I, Sanjiv Kumar Paliwal S/o Vinod Kumar Paliwal Aged about 57 years, presently working as Plant-in-Charge with Mangalam Cement Ltd, do hereby solemnly affirm and state on oath as follows:

1. That the deponent is the authorized signatory of the Respondent Company No.6 and is well conversant with the facts, circumstances and proceedings of the case and as such competent and duly authorized to swear and affirm this affidavit.
2. That I have gone through the contents of the accompanying Action Taken Report which has been drafted by my counsel and state that the same are true and correct to the best of my knowledge and as derived from the records maintained by the Respondent Company in its ordinary course of the business. The legal averments are based on the legal advice received and verily believed to be true.
3. That the annexures annexed to the present petition/reply are true copies of their respective originals.



DEPONENT



VERIFICATION

I, the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct and best to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at **Aligarh** on this **12** day of **December** 2025.



DEPONENT

B
12/12/2025
Brajesh Saraswati
Advocate
Regd. No. 3641/08, C.O.P. No. 1042
Civil Court/Collectorate, ALIGARH
Mobile No.: 7983043791

S. No. *9* Date *12-12-25* Time *12-30 pm*
Solemnly Affirmed before me
affidavit By *Suman Kumar Praliwal*
Identified By *Brajesh Saraswati Ad*
and who have been heard the
contents here & have Admitted
are same to be Correct.

[Signature]
OATH COMMISSIONER
COLLECTORATE, ALIGARH
12-12-25

ANNEXURE R-1

Item Nos.03 to 05

Court No. 2

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

Original Application No. 537/2022

Mukesh Kumar Chouhan

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondents

WITH

Original Application No. 426/2023

Surender Singh Chouhan

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondents

WITH

Original Application No. 457/2023

S S Singh

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondents

Date of hearing: 13.11.2025

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

Applicant: None for the Applicant.

Respondent: None for respondent no. 1 and 3.
Mr. Pradeep Misra, Advocate for respondent no. 2.
Mr. Gi. Gi. C. George for respondents no. 4 and 9.
Mr. Shlok Chandra and Mr. Anshuman Jindal, Advocates for respondent
no. 5 and 6 (through VC).
Mr. Chirag Rathi, Advocate for respondent no. 7 (through VC).
None for respondent no. 8.
Mr. Saurabh Balwani, Advocate for respondent no. 10 (through VC).**ORDER**

1. Report dated 09.11.2025 has been filed on behalf of respondent no. 4-Senior Division Commercial Manager, North Central Railway, Prayagraj.
2. Respondents no. 5 and 6 and 7 and 8 are respectively directed to file additional responses giving details regarding all remedial measures taken by them to prevent and control air pollution generated in the course of transportation of the material by respondents no. 7 and 8 from the railway siding to industrial units of respondents no. 5 and 6. In their responses, respondent no. 5 and 6 shall also mention as to whether any amount is spent by respondents no. 5 and 6 out of their CSR funds on protection and improvement of environment along the access/transportation route from the railway siding to the industrial units.
3. List on 16.12.2025 for arguments and orders.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

November 13th, 2025
Original Application No. 537/2022
And other connected matters
AB

ANNEXURE R-2

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

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...APPLICANT

VERSUS

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INDEX

<u>S.No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Reply on behalf of Respondent No.6 i.e. M/s Mangalam Cement to the present O.A. No. 537/2022, along with supporting affidavit.	1-12
2.	<u>ANNEXURE R-1 (Colly)</u> Copy of order dated 12.01.2023 and notice dated 24.01.2023.	13-15
3.	<u>ANNEXURE R-2</u> The true and correct copy of judgments of this 'Hon'ble Tribunal in "Aswini Kumar Dhal v. Odisha Pollution Control Board, O.A. No. 41/2015/EZ"	16-61
4.	<u>ANNEXURE R-3 (Colly)</u> Photographs showing steps taken by Project Proponent to mitigate the environmental impact of loading-unloading of clinker at railway siding. [Due to the large size of	-----

	Photographs the same would be demonstrated during the physical hearings.]	
5.	<u>ANNEXURE R-4</u> Reply provided by M/s Mangalam Cement to UPPCB dated 01.10.2022	62-63
6.	<u>ANNEXURE R-5</u> Para wise reply provided by M/s Mangalam Cement to UPPCB dated 30.12.2022.	64-67
7.	<u>ANNEXURE R-6 (Colly)</u> The True and translated copy of the UPPCB report dated 10/11/2022 (Original and English translation)	68-71
8.	Vakalatnama	72-73
9.	Proof of service	

Through
Counsels for Respondent No.6


Keshav Garg, Advocate
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Defence Colony,
New Delhi - 110024.
Mobile: +91 7999999240

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 537 OF 2022**

IN THE MATTER OF:

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VERSUS

State of UP & Ors.

...**RESPONDENTS**

REPLY ON BEHALF OF RESPONDENT NO. 6 IN O.A. NO. 537 OF 2022.

1. This reply is being filed by the Project Proponent i.e. M/s Mangalam Cement who is Respondent No. 6 in the present proceedings. It is respectfully submitted that the facts not specifically admitted should be considered to be denied and no averment should be considered to be admitted on the ground of non traverse. The petitioner be put to strict proof of all averments made. On 12.01.2023 the Respondent No. 6 was directed to file it's reply within one month and in compliance of the said directions the present reply is being filed. Copy of order dated 12.01.2023 is attached herewith marked as **Annexure R-1**. It may be noted that the notice was formally issued by NGT to the Respondent No. 6 only on 24.01.2023.

Facts in Brief:

2. It would be appropriate to first set out the brief facts of the case. The present Petitioner sent a letter petition which was treated and registered as Original

Application, complaining about air pollution caused by transport of clinker interalia by the Project Proponent.

3. After taking suo-moto cognizance of the present letter petition, the Tribunal found it appropriate to seek response from the 1) State of Uttar Pradesh, 2) State PCB, 3) District Authority, Aligarh; 4) Railways 5) M/s J.K Cement and 6) M/s Mangalam Cement & 7) M/s Vision Next Road Logistics Pvt. Ltd.
4. It may however, be noted that subsequently, the Petitioner has withdrawn his compliant. Notwithstanding the same the Petitioner is responding to the contents of the Complaint on merits.

Preliminary Submissions:

5. The main issue is relating to the air pollution caused at the railway siding at the time of loading/unloading of clinker and during transportation till 400-500 metres of the spot of loading/unloading site, the Project Proponent has already taken all the adequate measures at site. It is submitted that the Indian Railways is the operator of the railway siding and concretization of the same would fall within the prerogative of the Indian Railways.
6. Adequate measures have been taken by the project proponent M/s Mangalam Cement and they have implemented all the best available measures to control the dust emission during the process of loading and unloading. All the steps taken have been elaborated in detail in the present reply.

7. Uttar Pradesh Pollution Control Board i.e. UPPCB through the joint committee formed by the Ld. Tribunal has submitted its report dated 10.11.2022, which indicates that the adequate steps are being taken by the project proponents to mitigate the effects of air pollution caused by the loading/unloading of the clinker.
8. The Project Proponent is also in talks with Indian Railways in order to have a direct and dedicated transport line/corridor between its unit at Aligarh, so that in the foreseeable future the transportation by the trucks could be reduced.
9. Along with this reply, the answering respondent is also attaching relevant photographs to indicate the efforts made to mitigate the effects of transport by clinker in a proactive manner.

Main Reply:

Responsibilities of Indian Railways:

10. It is submitted that the Indian Railways is the sole owner of the railway siding and concretization and proper paving of the same falls within the prerogative of the Indian Railways. For issues relating to the air pollution caused at the railway siding at the time of loading/unloading of clinker and during transportation till 400-500 metres of the spot of loading/unloading site, the Project Proponent has already taken all the adequate measures. Since the Railway sidings are railway's property, the project proponents cannot make structural improvements at the site. Such structural changes

are not feasible as well as the project proponents cannot be expected for making such improvements.

11. It is submitted that Indian Railway have been continuously flouting all the Environmental Laws, Guidelines and suggestions put forward by this Hon'ble Tribunal as well as various other forums like State Pollution control boards. In this regard, the project proponent herein is citing herewith one such judgement of this Hon'ble Tribunal in this regard decided in "*Aswini Kumar Dhal v. Odisha Pollution Control Board, O.A. No. 41/2015/EZ*" wherein, THE Hon'ble Tribunal have acknowledged the lapses of indian railway and even mentioned that the indian railway is undeniably guilty of violation of the mandatory statutory provisions having breached the Environmental Laws, particularly, the Water Act, 1974 and the Air Act, 1981 by operating their units illegally from 2011. For the convenience, these judicial precedents may be acknowledged by the Hon'ble Tribunal. The relevant para of the Judgement which noted the lapses on the part of indian railway is as under:
"38. Having discussed on the facts and circumstances in detail, we are of the considered view that -

(a) East Coast Railway is undeniably guilty of violation of the mandatory statutory provisions having breached the Environmental Laws, particularly, the Water Act, 1974 and the Air Act, 1981 by operating their units illegally from 2011, after the revised guidelines had come into force, without consent to operate from the State Pollution Control Board and, for contributing to air and water pollution thereby degrading the environment."

The true and correct copy of the precedent judgement decided in “Aswini Kumar Dhal v. Odisha Pollution Control Board, O.A. No. 41/2015/EZ” is annexed herein as **Annexure R- 2**

12. UPPCB's in its letter dated 14.12.2022 in para 4 stated that, *“During visit, the platform near line no. 14 was found unpaved, which is also the cause of fugitive emission during transportation.”* Thereafter, UPPCB has recommended that the platform should be paved in a manner to avoid fugitive emission while loading/unloading of the clinker.

Measures taken by M/s Mangalam Cement and current status:

1. The Adequate measures have been taken by the project proponent i.e. M/s Mangalam Cement and implemented all the best available measures to mitigate air pollution at the time of the loading and unloading of clinker at the railway siding and during the process of transportation of clinker by truck. The loading and unloading of clinker as well as its transportation and shifting to our Plant is performed by M/s. P & P Exim Pvt. Ltd. Sootmill Choraha Aligarh- 202001. However, our clinker handling agency has deployed water tanker to maintain wetness of the drive area so as to control the dust generation, along with that our clinker handling agency has taken all the precautions and implemented the best measures to control the fugitive dust emissions. The photographs of the nearby area and even of 500 mtr radius of handling area clearly indicate the effectiveness of the control measures implemented:-

- Water sprinkling at Railway siding.
 - Mist/ anti-smoke guns are provided and operated as required to suppress dust particles.
 - Greenbelt (800 trees) has been developed all along the railway siding.
 - Green cloth curtain has been provided on both sides of sidings to trap the flying particles generated during the process.
 - Photographs showing the same attached marked as **Annexure R-3 (Colly)** along with this reply.
2. On 01.10.2022 the Project Proponent i.e. M/s Mangalam Cement, had submitted its reply to the UPPCB. The true translated copy of the reply provided by M/s Mangalam Cement to UPPCB is attached herewith marked as **Annexure R-4**.
3. On 30.12.2022, the Project Proponent had submitted para wise reply to UPPCB about their observations. The true translated copy of the reply provided by M/s Mangalam Cement to UPPCB is attached herewith marked as **Annexure R-5**.
4. In reply to UPPCB, it was submitted by M/s Mangalam Cement that the steps taken includes:
- i. Air borne dust is being controlled by water sprinkling which is done regularly.
 - ii. Floors are regularly swept.

- iii. While loading and unloading of clinkers the M/s. P & P Exim Pvt. Ltd. Sootmill Choraha Aligarh- 202001 uses green curtains as well as Canvass to cover the vehicle containers in order to trap the flying dust and particle's emission generated during the process.
- iv. That the Project Proponent M/s Mangalam Cement planted 101 plant saplings at the railway sidings in order to maintain the commitment of environmental protection by neutralizing the carbon emission during loading/unloading of clinkers as these plants act as carbon sinks at the site near railway sidings.

5. The latest report submitted by UP PCB states as follows:

1. *“At the time of inspection, the railway station was situated on the side line no. 0-14 of Harduaganj railway siding. Water sprinkling work was found to be done through 02 tankers in the loading/ unloading area.*
2. *At the time of inspection, two nos. of portable anti smoggun were found located at the loading/ unloading site and water sprinkling was found to be done by both of the anti smoggun. The representative present at the time of inspection was informed by Mr. Vision Next Road Line that Anti Smogon Machine has been purchased by the firm. Photocopy of tax invoice is attached.*
3. *At the time of inspection M/s Vision Next Road Line No-132, S.S. Off GT Road, Industrial Area, Ghaziabad by Harduaganj Railway Station*

and Monitoring of ambient air quality of Village- Satha was done in both loading and unloading conditions.

- 4. At the time of inspection, it is natural for dust/ dust to fly due to the railway siding of Harduaganj railway station and the road being unpaved for vehicular traffic. The representative present at the time of inspection was informed by M/s Vision Next Road Line that work has to be done by the Railways to make the said road and railway siding .*
- 5. Generated by the movement of vehicles and loading / unloading on Harduaganj railway siding at the time of inspection to control the fugitive dust, the eastern and western sides of the railway station were covered from the boundary with a long temporary green net about 20 feet high 600 meters on both sides (Photograph attached).*
- 6. Due to non- availability of goods train/ rack at the time of inspection, the work of unloading could not be done. But the loading work was going on. At the time of inspection, suitable PPE was not found to be used by the worker during loading.*
- 7. At the time of inspection, pump set was found installed on the borewell located on the railway siding. From the said borewell no record has been presented regarding whether the permission for water exploitation has been obtained from the District Level Ground Water Authority, Aligarh or not.*

8. *It was informed by M/ s Vision Next Road Line, present at the time of inspection, that the said borewell located at Harduaganj railway siding belongs to the Railways. Railway must get the permission for water harvesting. The report is sent with respect for your perusal and further necessary action."*

The True and translated copy of the UPPCB report is annexed herewith marked as **Annexure R – 6 (Colly)**

6. The Project Proponent have also conveyed their suggestions with Indian Railway in order to have a direct and dedicated transport line/corridor between its loading/unloading site to its destination unit, so that in the foreseeable future the transportation by the trucks could be reduced. A suitable direction may also be given to Indian Railways to fast track that proposal.
7. It is also respectfully submitted that a balance has to be met between economic development and environmental pollution. In the instant case, adequate measures have been taken by Project Proponent to mitigate air pollution in a proactive manner. The same is borne out from UPPCB's report as well as colour photographs attached.

PRAYER

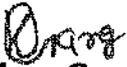
In view of the facts and circumstances of the present case the Respondent No. 5 respectfully prays that this Hon'ble Tribunal may be pleased to:

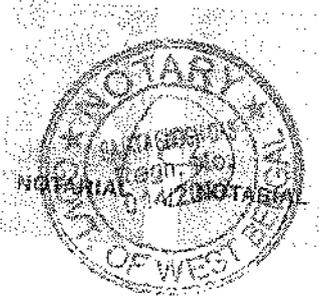
- (a) Dispose of the present OA with suitable directions to Indian Railways to adhere to its own guidelines and for pavement of railway sidings Harduaganj;
- (b) Pass such other orders as this Hon'ble Tribunal may deem fit and appropriate.

Place: New Delhi

Date: 14/02/2023

**Through
Counsels for Respondent No.6**


**Keshav Garg, Advocate
D-190, Second Floor,
Defence Colony,
New Delhi - 110024.
Mobile: +91 7999999240**



BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

[Under Sec. 16(g) of the NGT Act, 2010]

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...APPLICANT

VERSUS

State of UP

...RESPONDENTS

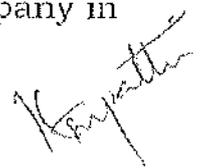
AFFIDAVIT

I, Kailash Nath Impaltri S/o Shri T. P. Impaltri Aged about
50 years, presently working as
AVP - Supply chain Mangalam Cement Ltd. do
 hereby solemnly affirm and state on oath as follows:

1. That the deponent is the authorized signatory of the Respondent Company No.6 and is well conversant with the facts, circumstances and proceedings of the case and as such competent and duly authorized to swear and affirm this affidavit.
2. That I have gone through the contents of the accompanying petition/reply which has been drafted by my counsel and state that the same are true and correct to the best of my knowledge and as derived from the records maintained by the Respondent Company in


 SUJATA CHAKSHI DAS
 Notary Genl. of W.B.,
 Regd. No. 214/22
 City South-East, Kolkata

16 FEB 2023



its ordinary course of the business. The legal averments are based on the legal advice received and verily believed to be true.

3. That the annexures annexed to the present petition/reply are true copies of their respective originals.

Krupathu
Deponent



VERIFICATION

I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct and best to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at Kolkata on this 16 day of Feb 2023.

Identified by me

Soma Dutta
Soma Dutta
Advocate
C.M.M. Court, Kolkata-1
Regn No.- F-1496/21

Krupathu
Deponent



SUJATA GHOSH DAS
Notary Govt. of W.B.
Regn. No- 014/22
City Sessions Court, Kolkata

SOLEMNLY AFFIRMED AND DECLARED BEFORE ME ON IDENTIFICATION

S. Ghosh Das
NOTARY

16 FEB 2023

Item No.07

Annexure R-1
(Court No. 2)
(COLLY)**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**(Through Physical Hearing with Hybrid VC Option)
Original Application No. 537/2022

Mukesh Kumar Chouhan

...Applicant

Versus

State of U.P.

...Respondent

Date of hearing: 12.01.2023

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

Applicant: None.

Respondents: Mr. Pradeep Misra, Advocate for UPPCB (through VC).
Mr. Shlok Chandra, Advocate for the Project Proponent-
M/s JK Cement.
Mr. Nishant Datta, Advocate for the Project Proponent-
M/s Vision Next Road Logistics Pvt. Ltd.**Application is registered based on a letter petition received by Email.****ORDER**

1. The grievance in the present application is regarding transportation of clinker for manufacture of cement through Harduaganj Railway station near village Satha District Aligarh in violation of environmental norms.
2. Vide order dated 05.09.2022, this Tribunal constituted a Joint Committee with direction to submit its report within one month. In compliance thereof, reports of the Joint Committee have been filed vide emails dated 01.12.2022, 21.12.2022 and 11.01.2023.
3. Applicant has sent affidavit by post stating that his grievance has been resolved and he does not want to continue further with the matter.
4. In view of the facts and circumstances of the case, we are of the considered view that the matter needs to be looked into for compliance with

environmental norms and for abatement of the environmental pollution. This Tribunal is empowered to take *suo moto* cognizance of such cases involving questions relating to environment arising out of the implementation of enactments specified in Schedule I of the National Green Tribunal Act, 2010 as held by Hon'ble Supreme Court in **Municipal Corporation of Greater Mumbai V/s. Ankita Sinha and others 2021 SSC Online SC 897.**

5. In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Uttar Pradesh through Chief Secretary, Government of Uttar Pradesh, (2) State PCB, (3) the District Magistrate, Aligarh, (4) the Railways and (5) the Project Proponent- M/s J.P Cement, (5) (5) the Project Proponent- M/s Vision Next Road Logistics Pvt. Ltd., who stand impleaded as respondents No. 1 to 7. The Registry is directed to prepare memo of parties to the application. Respondent no. 3,5,6 and 7 are already appearing before this Tribunal through counsel. Notices be issued to respondents no. 1, 2, 4.

6. Reply/response on behalf of the respondents be filed within one month by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

7. List for further consideration on 20.02.2023.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 12 2023
AG

BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI
ORIGINAL APPLICATION NO. 537 OF 2022
Mukesh Kumar Chouhan Vs State of Uttar Pradesh & Ors.

To

1. M/s Mangalam Cement
(Project Proponent)
C.D.F. Complex, Cherath, Anupsahar Road,
Koil, Aligarh, U.P.-202001
Email: communication@mangalamcement.com/
kolkata@mangalamcement.com

(RESPONDENT NO.6)

NOTICE

Whereas the above titled Application was listed before the Hon'ble Tribunal on 12.01.2023 (copy of order, petition and report are enclosed), when the Tribunal inter-alia passed the following order (reproduced relevant extracts only):-

"5. In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Uttar Pradesh through Chief Secretary, Government of Uttar Pradesh, (2) State PCB, (3) the District Magistrate, Aligarh, (4) the Railways and (5) the Project Proponent- M/s J.P Cement, (5) (5) the Project Proponent M/s Vision Next Road Logistics Pvt. Ltd., who stand impleaded as respondents No. 1 to 7. The Registry is directed to prepare memo of parties to the application. Respondent no. 3,5,6 and 7 are already appearing before this Tribunal through counsel. Notices be issued to respondents no. 1, 2, 4.

6. Reply/response on behalf of the respondents be filed within one month by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

7. List for further consideration on 20.02.2023."

2. Now, take further notice that the above matter will be listed for further consideration before the Hon'ble Tribunal on 20th February, 2023, at Faridkot House, Copernicus Marg, New Delhi-110001 through physical hearing (with hybrid option), when you may appear before the Hon'ble Tribunal either in person or by a pleader duly instructed, and file responses/replies, as per directions of the Hon'ble Tribunal vide Order dated 12.01.2023.
3. Take further notice that in default of your appearance on the date above mentioned, the said Application will be heard and determined in your absence.
4. Given under my hand and the seal of this Tribunal, on this 24th January, 2023.

Note: (For Orders, Cause Lists & other information, please visit our website www.greentribunal.gov.in)

24/1/2023
Consultant (Judicial), NGT



TRUE COPY

Annexure R-2

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

ORIGINAL APPLICATION NO. 41/2015/EZ

IN THE MATTER OF :

**ASWINI KUMAR DHAL
At PO- Jakhapura, Via Dangadi
Dist. Jajpur, Odisha-755026**

..... Applicant

-Versus-

- 1. Odisha Pollution Control Board
Through the Member Secretary,
Unt-III, Nilakantha Nagar, Bhubaneswar,
Odisha-751012**
- 2. District Collector,
At/PO Jajpur, Dis. Jajpur,
Government of Odisha,
Odisha-751 001**
- 3. The Station Manager,
Jakhapura Railway Station,
East Coast Railway,
At/Jakhapura, Dist. Jajpur-751001**
- 4. The Regional Transport Officer,
Chandikhol, Jajpur-755044**
- 5. The General Manager,
VISA Steel, Jakhapura,
Kalinga Nagar, Jajpur,
Odisha-755026**

6. The General Manager,
East Coast Railway Division,
Chandrasekharapur, Bhubaneswar,751017

.... Respondents

COUNSEL FOR THE APPLICANT :

Mr. Sankar Prasad Pani, Advocate

COUNSEL FOR THE RESPONDENTS :

Mrs. Papia Banerjee Bihani, Advocate, Respondent No. 1
Mr. Pravat Kumar Muduli, Advocate, Respondent No. 2 &4
Mr. Biswajit Samanta, Advocate, Respondent Nos. 3 & 6
Mr. Sambuddha Dutta, Advocate, Respondent No. 5

JUDGEMENT

PRESENT :

Hon'ble Mr.Justice S.P.Wangdi, Judicial Member

Hon'ble Prof. (Dr.) P.C.Mishra, Expert Member

Judgement reserved on : 6th May, 2016
Judgement pronounced on : 25th May, 2016

-
1. Whether the judgement is allowed to be published on the net ? Yes
 2. Whether the judgement is allowed to be published in the NGT Reporter : Yes

The applicant, a resident of village Jakhapura in the district of Jajpur of Odisha state, has approached the Tribunal under section 18(1) read with Sections 14(1) and 15(1) of the

National Green Tribunal Act, 2010 (for short NGT Act) seeking for direction to be issued upon the official respondents to take appropriate step against the respondent No. 3, the Station Master of Jhakhapura railway station, East Coast Railway and the added Respondent No. 6, General Manager, East Coast Railway Division at Chandrasekharpur, Bhubaneswar for illegally operating a Railway Siding/Stack Yard in Jakhpura railway station thereby causing severe air and water pollution in the locality leading to loss of primary productivity and pollution of water source to the detriment of health and economy of the people. Direction has also been sought against the General Manager, VISA Steel, the respondent No. 5 for contributing significant coal and iron ore dusts to the village environment, thus affecting the villagers due to transport of raw materials on the village road from the said railway siding on trucks and dumpers without any cover round the clock.

FACTS

2. The case of the applicant is that Jakhapura railway station which is located near Jakharpura village in Jajpur district with a population of about 7000 with two high schools, one primary school and one primary health centre, handles loading and unloading of raw materials like iron ore, coal and dolomite for the industrial units operating in the Kalinga

Nagar Industrial area where major industrial units are established. It is alleged that the railway station has no proper siding for handling the voluminous quantities of raw materials for loading and unloading and that even the railway platform is used as storage yard. That the railway station does not have pollution control system to control emission of air pollution and treatment of waste water and the transport of raw materials in uncovered vehicles engaged by VISA steel also adds to the pollution problems in the village.

3. In response to an application filed by the applicant under the RTI Act, it was revealed by the State Pollution Control Board of Odisha that East Coast Railway was carrying on with the activity of loading and unloading of raw materials at Jakhapura railway station without consent of the State Pollution Control Board, when it was a mandatory requirement under the law.

4. It is further the case of the applicant that the villagers had approached various authorities raising the issue in the past including the District Administration for redressal of the issue, but it yielded no result leaving the villagers to suffer from air and water pollution, agriculture loss, damage to the village road caused by loaded trucks and dumpers being plied

round the clock and even the ponds located near the railway station rendered unfit even for bathing. The applicant further allege that the information provided by the Community Health Centre, Danagadi, revealed 904 cases of Amoebiasis, 1490 cases of upper respiratory tract infection and 64 cases of Bronchitis in the locality during 2014-2015.

RIVAL CONTENTIONS :

5. In their reply, it is stated by the State Pollution Control Board (PCB), the respondent No. 1, that as per the Board's resolution No. 3369 dated 16.02.2008, activities of transportation, storage, loading and unloading of minerals at stack yards/railway sidings have been brought under consent management of the Board under 'Red Category' due to its considerable air pollution potential and accordingly, a guideline was issued which was subsequently revised in April 2010. The guidelines stipulate that for such activities existing prior to the Board's resolution of 2010, it was only necessary to obtain 'Consent to Operate' dispensing with the necessity to obtain 'Consent to Establish'. The Regional Officer of PCB at Kalinga Nagar had thus directed the respondent No. 3 by his letter No. 752 dated 30.05.2014, to obtain consent from PCB and that, till such consent was obtained, to stop the activities of siding failing which appropriate action under Section 33A of the Water Act,

1974 and Section 31A of the Air Act, 1981 would be initiated without further notice. Since the railway failed to comply with the direction, the Regional Officer of the PCB caused an inspection of the railway siding conducted on 22.01.2015 and, consequential thereto, show cause notice dated 27.01.2015 was issued against the respondent No. 3.

6. After receipt of the show cause notice on 20.02.2015, the respondent had filed an application for consent but it was found to be incomplete inasmuch as neither was the project report filed nor was information on the existing facilities in respect of pollution control measures furnished along with it. Concerned by the pollution caused by such activities even the Additional District Magistrate, Jajpur, had issued notice to the Respondent No.3 vide his letter dated 03.02.2015.

7. On a subsequent inspection carried out by the Regional Officer of the PCB on 27.02.2015, it was found that the respondent No. 3 had still not adopted any pollution control measure to arrest the dust generated by the loading/unloading activities of raw materials, and accordingly, on 04.03.2015 direction was issued to the railway by the Board to stop the operation of storage, loading and unloading. In compliance to this, the railway stopped the activities from 07.03.2015.

8. On 25.3.2015, the Regional Officer of the Board at Kalinga Nagar inspected the site of respondent No. 3 and, being satisfied with the pollution control measures undertaken by the respondent No. 3 and their willingness to take additional measures and, also in consideration of the letter of the District Administration directing them to allow respondent no. 3 to operate, the PCB revoked the closure order on 04.04.2015. However, inspection carried out by the officials of the Regional Board on 30.05.2015 and 25.06.2015 revealed that the pollution control measures adopted earlier had been withdrawn and the compliance status found unsatisfactory. Thereafter, notice was issued to respondent No.3 to show cause as to why direction should not be issued to close down the unit. This was followed by the closure order dated 22.07.2015 issued by the Board and, as revealed from the affidavit filed by the Board, the activities of respondent No. 3 had been stopped with effect from 23.07.2015.

9. The respondent No. 3, the District Magistrate and Collector of Jajpur and Respondent No. 4, the Regional Transport Officer, Chandikhol, Jajpur, strongly resisted the application contending it to be 'not maintainable' and 'wholly misconceived'. As per them, transportation of raw materials

without cover is an offence under the Motor Vehicles Act 1988 punishable under section 192(A) thereunder and 32 VCRs had been drawn up against the trucks/dumpers by the Traffic Inspector for transporting raw materials without cover. The respondent No. 2 would further state, *inter alia*, that the respondent No. 3 had been allowed to continue with the loading and unloading operation of minerals at Jakhapura Railway Siding for the time being as the BDO, Danagadi, was in the process of conducting Palli Sabha/Gram Sabha.

10. The respondent No. 5, the VISA Steel Limited, in their reply affidavit asserted that it was a reputed company, and had obtained all the required clearances, licences, consents, permissions as required under the law for carrying on their business. The roads in question by which the materials and resources of the entire industry are moved, were constructed, developed and maintained solely by Jajpur Cluster Development Limited and over eight years and was being used by more than 30 companies. It is alleged that the applicant has vested interests in instituting the case and is a miscreant who had instigated the labour Union to create pressure on the respondent No. 5 to accede to their illegal demands. The fact that a number of police cases are pending against him would make it apparent that the applicant has been indulging in illegal

activities in and around Jakhapura area. It is further stated that the raw materials carried by the vehicles are covered with tarpaulin to avoid any spilling and emission and precautionary and preventive measures always taken to prevent any pollution being caused by the handling and transportation of raw materials and minerals.

DISCUSSION ON MERITS :

11. We have perused the status reports and the documents on record, considered the pleadings and also heard the Learned Counsel for the parties. The fundamental question that requires determination in this case is as to whether Jakhapura Railway Station, East Coast Railway, the Respondent No. 3, would fall in the purview of consent domain under the Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974 and the Environment (Protection) Act 1986, before the Tribunal can pass directions as prayed for in the application. Considering the pleadings contained in the original application and the affidavits in opposition filed on behalf of respondents, this question appears to be answered completely in the affirmative.

12. It is an admitted position that the siding/stack-yards was established by the East Coast Railway for storage, loading and unloading of raw materials in Jakhapura Railway Station prior to the year 2008 when these activities were not listed for consent management of the State Pollution Control Board. It was only in 2008 that the Pollution Control Board included "transportation, storage, loading and unloading of minerals at stack yard/ railway siding under "Red Category" thereby bringing such activities within the purview of consent management. Consequently, the earlier guidelines were revised in 2010 and circulated by the Board, relevant portions of which are reproduced below :

"GUIDELINES FOR PROCESSING OF CONSENT APPLICATION FOR MINERAL STACK YARD AND RAILWAY SIDING

Transportation, storage, loading and unloading of minerals at Stack-yards/Railway siding have considerable air pollution potential. These activities have been brought under consent administration of the Board under **RED category** as per **Board's Resolution No.3369 dated. 16.2.08**. Applications for grant of consent to these activities are to be disposed of by concerned Regional Offices as per the **delegated power vide letter No.2186 dated.31.1.08**. The Board issued guidelines to regulate stack-yards and railway siding in April 2008. The Board received certain submissions from various stakeholders indicating certain ambiguity and operational difficulties in implementing the guidelines. Thus to further streamline it and to make it implementable, a consultative meeting with all stakeholders was convened on 31.10.09 and their views were considered. In order to facilitate timely disposal of applications and to make the procedure uniform the following guidelines are issued. These guidelines superceed the guidelines issued in April 2008 vide Board's letter no.9718 Dt.24/04/08 and the additional guidelines issued vide Board's letter no. 17924 dt.29/10/09.

1. DEFINITION :

1.

i) **Stack – yard** : Stack-yard means mineral stack yard over an area, which is used to receive, store either for a short period or long period, load/unload and dispatch minerals from the site and requires a trading license under Orissa Mineral (Prevention of Theft, Smuggling and illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules 2007.

ii) **Railway-siding** : A railway-siding is a place/area which is used to receive, temporarily store and load/unload material in the rakes and dispatch materials.

iii) **Cluster of stack –yards** : A cluster of stack-yards means a group of stack-yards having at least one common boundary, who enter into an agreement among them to remain collectively responsible to maintain the pollution control system while operating the stack-yards.

2. APPLICABILITY :

i) The railway-siding , stack-yards and clusters of stack-yards of minerals, which are already established and operating prior to the date of Board's Resolution i.e 16.2.08 are required to only obtain consent to operate from the Board.

ii) Railway-siding, stack-yards and clusters of stack-yards, which are established after the date of Board's Resolution i.e 16.2.08 or, to be established thereafter are required to obtain consent to establish first and then consent to operate from the Board.

iii)

iv)

v)

vi).....

3. APPLICATION FORM :

The applicant shall apply for consent to establish and consent to operate (as applicable) in the prescribed form of the Board alongwith additional information in the format as per Annexure-1 .

4. SITING CONSIDERATIONS (MINERAL STACK-YARD) :

Consent to Establish applications for mineral stack-yards shall be considered on the basis of the following site suitability criteria.

i) The boundary of proposed site shall be at an aerial distance of at least 100 meter from State/National Highway.

ii) The boundary of the proposed site shall be at an aerial distance of at least 500 meter away from Schools, Colleges, Hospitals, Archaeological monuments, and other sensitive areas.

iii) It shall be ensured that run-off during rain from the proposed site, any water body, which is used by local people, remains at minimum possible level.

iv) Location of the stack-yard should be such that there is no public inconvenience for parking or movement of vehicles.

v) The applicant for consent to establish shall obtain a NOC from Sarpanch following a gram sabha if it is proposed in a rural area or obtain NOC from the concerned ULB in case of urban area.

vi) In case of new cluster the proposed site shall conform to the above stipulations for citing as a whole.

5. ENVIRONMENTAL ASSESSMENT :

a) Check list of Environmental Issues :

The following issues shall be taken into consideration for environmental assessment.

- i) Siting of facility and proximity of nearby dwellings.
- ii) Compatibility of the activities with surrounding land use.
- iii) Need for isolating the operational areas or any additional precautionary measure to be undertaken.
- iv) Likelihood of the materials proposed to be handled to create dust nuisance.
- v) Proposed dust control measures.
- vi) Storm water management system and disposal practice.
- vii) Possibility of discharge to nearby water bodies.
- viii) Bunding of storage area and its appropriateness

- ix) Impact on nearby residents, beyond normal working hours.

b. Standard conditions (RAILWAY SIDING AND MINERAL STACK YARDS) :

The following conditions may be imposed for pollution control while granting consent to establish/consent to operate for railway siding and mineral stack-yards. These conditions are only indicative and not exhaustive.

House Keeping :

.....”

13. The matter having travelled to the Hon'ble High Court of Orissa, it was clarified vide its order dated 24/01/2011 in Writ Petition (C) No.21867/2010 that it was mandatory under the revised guidelines of 2010 issued by the State Pollution Control Board for the Railway to obtain consent for establishment and operation of any railway siding, even if it is owned and operated by the railway authorities. This led to a resolution being passed by the Board that was notified vide reference no. 11025/IND-II-NOC(Misc)-40 dated 06.07.2011 which is reproduced as under :

**“ STATE POLLUTION CONTROL BOARD, ORISSA
Paribesh Bhawan, A/118, Nilkanthanagar,Unit-VIII
Bhubaneswar-751012**

No.11025/IND-II-NOC(Misc)-40 Dt. 06.07.11

RESOLUTION

The Board in its 100th meeting held on 23.3.2010 decided to implement the modified set of guidelines for environmental management in minerals stack-yards and railway sidings.

Accordingly, a resolution was brought out in this regard vide letter No. 6559 Dated 19.4.2010.

1. In the above guidelines, it was stipulated that the railway sidings owned maintained and operated by Indian Railway Authorities shall implement all pollution control measures within a period of six months. They will not obtain consent from the Board, however, they will be required to ensure self-regulation for implementation of Water Act, Air Act and good housekeeping practice as stipulated in above guidelines and furnish environmental management plan as well as annual return in the prescribed format to concerned Regional Office, State Pollution control Board. The Hon'ble High Court of Orissa in W.P. (C) No. 21867/2010 have passed orders on 24.1.2011 that for establishment and operation of any railway siding consent of the Board is mandatory even if it is owned and operated by the Railway Authorities.

In view of the above, the Board in its 102nd meeting held on 15.3.11 resolved that the guidelines prepared for environmental management in mineral stack-yards and railway sidings will also be applicable for Railway authorities and they shall obtain consent from the State Pollution Control Board to establish and operate railway sidings.

2. Clause 4(i) of the above guidelines stipulates that the boundary of the proposed site of mineral stack-yards shall be at an aerial distance of at least 100 m from the State/National Highways. But, the guidelines is silent about the distance criteria from the Express Highways and industrial transport corridors.

The Board in its 102nd meeting also decided that the express highways and industrial transport corridors will be considered at par with National/State Highway.

This resolution is in partial modification to earlier resolution No. 6559 dt. 19.4.2010 of the Board and will come into force with immediate effect.

By order of the Board
Sd/-
MEMBER SECRETARY "

14. From the above, it would be abundantly clear that seeking consent from the PCB for establishment and operation of any siding, had become mandatory even if it was owned and operated by the Railway.

15. Power of the State Pollution Control Board to grant consent is provided under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 and under section 21 of the Air (Prevention and Control) Act, 1981. The object of the Water Act, 1974 as would appear from its preamble, is to provide for prevention and control of water pollution and maintaining or restoring wholesomeness of water and, that of the Air Act 1981 for prevention, control and abatement of air pollution and for establishment of Boards and matters cognate thereto. Both the Acts contain prohibitory, regulatory and punitive provisions which mandate that no person shall, without the previous consent of the State Board, establish or take any steps to establish any industry, operation or process of any treatment and disposal system or any extension or addition

thereto, which is likely to discharge untreated sewage or effluent into streams or wells or sewer or on land. The Board is empowered to issue directions including closure of an industry and disconnection of essential supplies to it as envisaged under section 5 of the Act of 1986.

Similarly, the Air Act vests the Boards with the power to issue directions for complete restriction of an activity in the notified air pollution control area. Section 21 of the Act prohibits any person from establishing and operating any industrial plant in air pollution control area, without the previous consent of the State Board. Like Section 33A in the Water Act, Section 31A was introduced in the Air Act vesting the Boards not only with the power to issue directions of closure, prohibition or regulation of any industry, but also operation or process or disconnection of essential supplies to an industry or a plant.

16. The provisions of the Acts demonstrate the object and legislative intent to prohibit establishment or any activity, which would result in emission of toxic gases to the air, discharge of domestic, municipal or industrial effluents to land or water. 'Consent' under these laws is contemplated at two stages i.e., firstly, at the stage of establishing such plant, industry, etc. and secondly, at the time of putting the unit into operation. Thus, the law imposes dual obligation upon the person or industry.

Firstly, it has to take the consent of the Board and secondly, it must ensure adherence to the prescribed conditions/parameters of the laws in force and, the responsibility of complying with the laws is placed exclusively on the person or industry.

17. Let us now examine as to whether in the present case, law has been complied with by the East Coast Railway, the Respondents no. 3 and 6.

18. It is pertinent to note that on the very first day i.e., 29th May, 2015, when this matter was taken up for admission, it was noted by this tribunal that action had been initiated by the Odisha State Pollution Control Board in issuing a show cause notice upon the Respondent No. 3 in respect of the transportation, storage, loading and unloading of minerals on the stack yard/railway siding followed by a closure notice which, however, was found to have been withdrawn later inspite of the fact that the siding was still being operated by the Railway without consent. Direction was thus issued upon the Odisha Pollution Control Board to file a report in the form of an affidavit explaining the reason as to why the closure notice had been withdrawn and at the same time, also directing them to take steps in accordance with law on the allegations contained in the application.

19. The affidavit filed by the Odisha Pollution Control Board in compliance to the above direction, contained surprising revelations which in short are as follows :- .

- (i) It was highlighted in the affidavit that Jakhapura railway siding of East Coast Railway was established prior to the year 2008 and therefore, as per Clauses 2 (ii) of the Guidelines of For Environmental Management in Mineral Stack Yards And Railway Sidings prescribed by the Board dated 16.4.2010 , it was only required to obtain 'Consent to Operate' under Sections 21 and 25 of the Air (PCP) Act 1981, and Water (PCP) Act 1974 respectively. Clause 4 (v) of the guidelines was also referred to whereby, it was stated that it was mandatory to obtain NOC from the Sarpanch following a Gram Sabha, if the project was being proposed in rural area, and urban area from the concerned ULB in case of urban area ;
- (ii) The Respondent No.3 did not furnish prior information of the date of commissioning of the siding;
- (iii) The Board insisted that Respondent No.3 should submit NOC from the Gram Sabha;
- (iv) Later, it was informed by the Respondent No.3 that it was not required to submit NOC in support of the application for 'Consent to Operate' under the guidelines at the

siding/mining stack yard was commissioned prior to the year 2008;

- (v) The Board then issued letter No. 752 dated 30.05.2014 directing to Respondent No.3 to obtain 'consent' and until the 'consent' was granted, to stop all operational activities;
- (vi) The respondent No.2 , inspected the railway siding on 22.1.2015 and based on the inspection report, show cause notice was issued to the Respondent No.3 as to why direction of closure under Section 33A of Water (PCP) Act 1974 and 31 A of Air (PCP) Act 1981 should not be issued in respect of the railway siding;
- (vii) In his reply dated 13.02.2015 to the show cause notice, the Station Master, East Coast Railway, Jakhapura, it was stated that the Respondent No. 5, i.e., M/s VISA Steel Ltd., had taken necessary steps to implement pollution control measures and that the matter had been referred to higher authority and further that a Demand Draft for Rs. 30,966/- had been drawn for 'consent to operate' for 3 years and sent to the Regional Officer;
- (viii) Since show cause reply did not contain information on the project report and the existing pollution control measures adopted , an inspection of the railway siding was carried out 27.02.2015 during which, it was found that Respondent No.3 had not adopted any pollution

control measure to arrest the dust generated by the unloading of raw materials. Thus, that the Regional Officer issued a letter dated 04.03.2015 directing the Respondent No.3 to stop the activities.

- (ix) In response to the letter dated 04.03.2015, the Respondent No.3 in his letter dated 11.03.2015, while admitting that the railways had not obtained necessary consent from the State Pollution Control Board, informed the Regional Office that the work of unloading and loading at the Jakhapura Railway siding had been stopped from 07.03.2015 and, requested for one month's time for holding "Palli Sabha" for the purpose of obtaining NOC.
- (x) Inspection carried out by Regional Office on 25.03.2015 found the Respondent No.3 in full compliance of the statutory requirements and had also proposed to adopt more pollution control measures and even the District Administration, Jajpur, had made a request to the Regional Office to allow the Respondent No.3 to operate the railway siding;
- (xi) In view of the recommendation contained in the inspection report, the State PCB reconsidered its earlier decision and revoked the direction of closure issued vide letter dated 04.04.2015 ;

(xii) Since Regional Office of the Board have been directed to monitor the progress of implementation of the pollution control measures, inspection of the site was carried out by the officers of Regional Office on 30.05.2015 and 25.6.2015 and found that the pollution control measures installed earlier based upon which the inspection report dated 25.03.2015 had been submitted, had been removed and the status of pollution control measure adopted by the unit unsatisfactory. Show Cause notice was thus issued again to the Respondent No.3 vide letter dated 07.07.2015 as to why direction of closure under Section 33A of Water (PCP) Act 1974 and Section 31A of the Air (PCP) Act 1981 be not issued.

20. The aforesaid sequence of events set out in the affidavits filed by the State Pollution Control Board narrated above, in our view, demonstrates the indifference of the railway and their deliberate defiance of the laws and also the disdain with which they treat statutory authorities.

21. In the instant case, after the guidelines were revised by the PCB whereby the railway having siding/stack-yard activities fell under the purview of the consent management with effect from 06.7.2011, the East-Coast Railway ought to have

applied for consent from the Board immediately. Surprisingly, however, the railway continued with the operation of the facility without caring to apply for consent and, the PCB on the other hand remained a silent spectator to the commission of such illegality. It was only after representations were submitted by the local people of Jakhapura to various authorities regarding the severe pollution in the area caused thereby that on 30.05.14 the Regional Officer of PCB at Kalinga Nagar ultimately wrote to the railway directing them to obtain consent from PCB and, in the meanwhile, to stop the activities of the siding/stack yard.

22. We also find it quite shocking to note that the railway, being the largest Government organisation in the country preferred not to respond and to disdainfully ignore the notice/direction of the PCB compelling PCB to conduct an inspection on 22.1.2015. The report of the inspection, that revealed gross failure of the railways to follow the anti-pollution norms, is reproduced below for convenience :-

**"INSPECTION REPORT OF JAKHAPURA RAILWAY
SIDING OF EAST COAST RAILWAY AT-
JAKHAPURA DIST. JAJPUR**

The aforesaid railway siding of East Coast Railway was inspected on 22.01.2015 to verify the pollution control measures adopted. The detail description of the observations on the above mentioned

**DEPARTMENT OF FOREST & ENVIRONMENT,
GOVT. OF ODISHA
Common Facility Centre, JCD, Kalinganagar
Dist. Jagpur-755026, Odisha, India**

No. 230

Dt. 27-01-2015

**SHOW CAUSE NOTICE UNDER SECTION 25/26 OF
WATER (PREVENTION & CONTROL OF POLLUTION) ACT,
1974 AND UNDER SECTION 21 OF THE AIR (PREVENTION
& CONTROL OF POLLUTION) ACT, 1981**

Whereas you are operating Railway Siding at Jakhapura Railway Station (East Coast Railway) without obtaining Consent to Establish/operate from State Pollution Control Board, Odisha as per provisions contained in section 25/26 of Water (Prevention & Control of Pollution) Act, 1974 and section 21 of Air (Prevention & Control of Pollution) Act, 1981'

And Whereas a letter was communicated from this office to you vide letter No. 752 dtd. 30.05.2014 to stop all operational activities of Jakhapura Railway Siding forthwith till consent to establish/operate is obtained from the Board. It was also mentioned that as per the Resolution No. 3369 dt. 16.02.2008 of the Board, the stock yards and railway sidings which are already established and operating prior to the date of Board's Resolution are required to obtain consent to establish/consent to operate from the Board.

And Whereas you have not made any communication to this office for implementation of pollution control measures and towards obtaining Consent to Establish and Consent to Operate from the Board.

And Whereas you have not installed fixed water sprinklers/any other pollution control measures for air/water pollution control measures.

And Whereas unloading and handling of raw materials/minerals and transshipment through heavy vehicles were found to be taking place in the close proximity to nearby industries through nearby village roads. Such activity has a high potential to pollute the ambient air quality in the vicinity.

And Whereas your Railway Siding was inspected on 22.01.2015 and it was observed that the following non-compliances were observed :-

1. You are still operating your unit without obtaining consent to establish/operate from the Board even

after issuance of directive vide this office letter No. 752 dtd. 30.05.2014.

2. You have not yet installed any fixed water sprinklers at material storage area for suppression of dust particles, proper drainage system collection of waste water.
3. You have not provided any facilities to stop flow of water from the siding to nearby lands during rain;

Now, therefore, you are directed to show cause within 21 days from the date of issue of this notice as to why direction of closure under section 33A of the Water (PCP) Act, 1974 and 31A of the Air (PCP) Act, 1981 shall not be issued to your Railway Siding without giving further opportunity. In case, you fail to submit any explanation within the stipulated date and/or cause shown by you are found to be not satisfactory, an ex-parte decision in this matter shall be taken for issuance of direction of closure under section 33A of the Water (PCP) Act, 1974 and 31A of the Air (PCP) Act, 1981 directing the appropriate authorities to seal your Railway Siding and other facilities/services etc. to your unit without giving further opportunity. If you are interested for a personal hearing the same may be indicated in your reply.

Sd/-

Regional Officer,

To
Station Master,
Jakhapura Railway Station (East Coast Railway)
At Jakhapura, PO Jakhapura,
Dist. Jajpur "

24. In his reply to the show cause, the Station Manager, East Coast Railway, Jakhapura in letter dated. 13.2.2015 (annexure-F/1 at p. 69) instead of dealing with the responsibility of the railway in complying with the pollution control norms, informed the Regional Officer, State PCB,

Odisha that on 28.1.2015, VISA Steel Ltd and Maithan Ispat Ltd. had been asked to take necessary measures for preventing air and water pollution at Jakhapura and that in the meantime, VISA Steel Ltd. had taken steps and implemented the pollution control measures like sprinkling water during unloading and shifting of their cargo from railway siding to their plant and, covering their loaded vehicles with tarpaulin. While further informing that a demand draft for Rs. 30,966/- had been sent by the Divisional Commercial Manager, East Coast Railway, Khurdha towards consent fee, it was not disclosed in the letter as to whether or not they had submitted application for consent to the Pollution Control Board. By a subsequent letter dated 19.12.2015, the Station Manager forwarded photocopies of shifting clearance memos of Maithon Ispat Ltd, Jindal Steel Ltd., Dinabandhu Steel Ltd., etc. (Annexure-G/2 p. 70) and statement of unloaded rakes of different companies from January 2007 to January 2008 at Jakhapura. The letter thus reveals that although, apart from the Respondent No.5, VISA Steel, many other companies were involved in transportation, loading and unloading of raw materials in Jakhapura Railway Station, nothing has been found to have been stated as regards its own responsibility except a vague suggestion that for obtaining 'consent to

operate' the railway was not required to submit NOC in support of their application therefor.

25. Inspection of the railway siding carried out for the second time on 27.02.2015 by a team of three Scientists from the State Pollution Control Board revealed that the railway siding had not adopted any pollution control measures to arrest the dust generated due to unloading activities of raw materials and that the siding was still functioning without obtaining consent from the Board. We may for the sake of better appreciation of the matter reproduce below the inspection report :-

" INSPECTION REPORT ON RAILWAYSIDING LOCATED AT JAKHAPURA RAILWAY STATION (EAST COAST RAILWAY) AT/PO JAKHAPURA, JAJPUR

Dt. Of Inspection - 27.02.2015

1. The Jakhapura railway siding is located at the opposite side of the Jakhapura railway station at Jakhapura under Danagadi Tahasil of Jajpur district. On the day of inspection Mr. Raghunath Panda, Station Superintendent was present.
2. The Jakhapura Railway Authority has constructed Rout No. 4 (Platform) for transport of raw materials. The loading and unloading are is completely concrete. The railway siding does not have any covered shed.
3. The Station Superintendent informed that the siding is functioning since 2005 for loading and unloading of pig iron, Coke, Iron ore, Lime Stone, Dolomite and Coal etc. by the industries of Kalinga Nagar areas.
4. The raw material is being loaded/unloaded on the open platform. Mr. Panda, informed that the loading/unloading activities is being done both manually and mechanically.

5. The concrete flooring of the Railway siding was found to be in dilapidated condition in various places.
6. The height of the boundary wall is approx. 5 ft. & maximum upto 1/3 length of Railway siding.
7. The authority has not provided any dust suppression system to minimize the dust generated from the site during loading & unloading of the materials.
8. No garland drain & setting pit have been constructed on the Railway siding.
9. No plantation at the site was observed.
10. During the time of inspection no loading and unloading activity was going on & so the AAQ monitoring could not be conducted.
11. The Housekeeping of Railway siding was found not satisfactory.
12. **Nearby Habitations** : At one side of the railway siding railway staff quarters is present and in other side station sahi at about 500 meter and a temple is present at about 150 mt. Distance. Two number of ponds are situated at about 50 mts. distance from the boundary wall of the railway siding. The close proximity of the railway siding is covered by agriculture land.

RECOMMENDATIONS : The railway siding has not adopted any pollution control measures to arrest the dust generated due to unloading activities of raw materials. The siding is functioning without obtaining consent from the Board . After Show Cause notice issued vide L.No.230 dt.27-01-2015, the authority has applied for consent to Operate to the Board on 20-02-2015. So, necessary action may be initiated in favour of the railway siding.

Sd/-

Sd/-

Sd/-

Inspecting Officer

Inspecting Officer

Inspecting Officer

(Er. S.N.Mohanty, AEE)

(Dr.R.K.Mishra, DES)

(Dr.A.K.Mallick,RO)"

26. Considering the aforesaid report, "stop operation" order was issued by the Regional Officer for immediate implementation by the Jakhapura Railway station in exercise of the powers conferred under the provisions of Sec. 33(A) of the Water Act 1974 and Sec. 31(A) of the Air Act, 1981. Reproduced below for convenience is the said "stop operation" order :-

" REGIONAL OFFICE OF THE
STATE POLLUTION CONTROL BOARD,ODISHA
DEPARTMENT OF FOREST & ENVIRONMENT, GOVT. OF ODISHA
Common Facility Centre, JCD, Kalinganagar
Dist. Jagpur-755026, Odisha, India

No. 621

Date.04-3-2015

To

The Station Master,

Jakhapura Railway Station (East Coast Railway)
At Jakhapura, PO : Jakhapura
Dist. Jajpur

Sub: Stop operation on Mineral loading & Unloading activity of
Jakhapura Railway Siding (East Coast Railway)-

Sir,

You are operating a railway siding at Jakhapura Railway Station (East Coast Railway) without obtaining Consent to Establish/Operate from State Pollution Control Board, Odisha. Many public complaints were received by this office regarding air pollution due to loading, unloading & transportation of Minerals from Railway Siding to different industrial units at Kalinga Nagar Industrial complex. Loading, unloading and handling of minerals and subsequent transportation through heavy vehicles were found to be taking place in the close proximity to Railway siding and nearby residents of village Jakhapura and adjoining area for which Show Cause Notice was issued vide No. 230 dt. 27.01.2015. Based on Show Cause Notice from the Board, Additional District Magistrate, Jajpur also issued Show Cause Notice vide No. 304 dtd. 03.02.2015.

As per the Resolution No. 3369 dated 16.02.2008 of the Board, the stock yards and railway sidings which are already established and operating prior to the date of Board's Resolution are required to obtain consent to establish/operate from the Board. Accordingly, you have applied for consent to operate to the Regional Office which received on 20.02.2015 without submitting NOC obtained from Jakhapura Gram Panchayat. But neither have you furnished any project report nor have you submitted the existing facilities with respect to pollution control measures in the railway siding area. Subsequently, officers from State Pollution Control Board, Kalinga Nagar visited the aforesaid railway siding on 27.02.2015 and it was observed that you have not provided pollution control measures like provision of garland drain, settling pit, complete boundary wall, water sprinklers, green belt which is needed as per the guidelines. The housekeeping was also observed to be not satisfactory.

Now, in exercise of the powers conferred under the provisions of 33(A) Water (Prevention and Control of Pollution) Act, 1974 and 31(A) of Air (Prevention and Control of Pollution) Act, 1981, you are directed to stop operational of mineral loading and unloading activities of Jakhapura Railway siding forthwith till you obtained consent to operate from the Board. Violation of above directives shall be viewed seriously and appropriate legal action will be initiated against you without giving further notice.

Yours faithfully,

Sd/-
Regional Officer "

27. In his letter dated 11.03.2015, the Station Manager while acknowledging the receipt of the 'stop operation' order of the Board, informed that work at railway siding had been stopped, requested for reconsideration of the decision as the ADM, Jajpur, had already taken immediate action to resolve the issue remarking that that the Board ought to have waited for the receipt of NOC from ADM, Jajpur, before issuing the 'stop operation' order. We may reproduce below of Station Manager letter dated 11.3.2015 which we find it to make an interesting reading :-

"From	To
Station Manager, E.Co.Rly, JKPR, Jkpr/Pollution/12/15	The Regional Officer, SPCB Odisha, Jakubga Nagar, Jajpur.

Date. 11/3/15

Sub : Reconsider on Mineral loading & unloading activity of
JAKHAPURA Railway Siding (E.CO.Rly)

Ref: Your letter No. 623 date. 04/03/15.
My letter No. JKPR/AIR/WATER/PPLUTION/12/15 date.
19/02/15.
ADM/JAJPUR LETTER NO. 1-J-08/2015/443 Dt. 19/02/15.

Sir,

After receiving your letter, I implemented your order i.e. stopped unloading & loading at Jakhapura Railway siding from 07/03/15 as railway is not obtained consent from State Pollution Control Board, Odisha as mentioned in your letter. But for obtaining consent NOC from "PALLI SABHA" of Jakhapura locality is highly necessary for which I had given appeal to you for enhancing one month time conducting PALLI SABHA by Govt. of Odisha. In the same day I had also given a copy of appeal to ADM/Jajpur for early compliance.

ADM/Jajpur has also taken immediate action as reflected in his letter which is enclosed for your reference. I very much sorry to say that before receiving NOC from ADM/Jajpur you exercised your power to stop the operation at Jakhapura railway siding.

Hence, I request you for the greater & better interest of the Govt. companies & public reconsider on your imposed order & issue necessary instruction to continue.

Sd/-
STATION MANAGER

Copy to Additional District Magistrate, Collectorate, Jajpur."

28. In order to ascertain the circumstances under which the District Administration, Jajpur, had intervened in the functioning of the PCB, an independent statutory authority, we, by order dated 22.07.2015, directed the Respondent No. 1, to file an affidavit with particular reference to the correspondence made by the District Collector. With the additional affidavit filed by the Respondent No. 1, i.e., the State Pollution Control Board, in compliance of the said direction, letter no. 89 dated 16.3.3015 of the Collector and District Magistrate, Jajpur, addressed to the Regional Officer was thus filed which reads as follows :-

"COLLECTORATE JAJPUR
(Judicial Section)
No. 89 dated 16/3/15

From

Shri Anil Kumar Samal, IAS
Collector & District Magistrate, Jajpur

To

The Regional Officer,
State Pollution Control Board, Odisha,
Common Facility Centre, JCD, Kalinga Nagar,
Dist. Jajpur.

Sub : Stop operation on mineral loading & unloading activity of
Jakhapura Railway Siding.
{East Coast Railway}

Ref : This office Memo No. 694 dt. 13.3.15 and your letter No. 623 dt.
4.3.2015

Sir,

With reference to the letter on the subject cited above, you are directed to allow loading & unloading operation of minerals at Jakhapura Railway Siding (East Coast Railway) for the time being since conducting of Palli Sabha/Gram Sabha by the BDO Danagadi is under process.

Yours faithfully,
Sd/-
Collector & DM, Jajpur "

29. As would appear from the letter, the Regional Officer was directed by the Collector and DM, Jajpur (Respondent NO.2), to allow the activities at Jakhapura Railway Siding for the time being because conduct of Palli Sabha/Gram Sabha by the BDO, Danagadi, was under process.

30. The question that would then arise is as to whether the DM was possessed of the power to pass such direction. As the steps being taken by the State PCB in issuing the notices and passing the directions under consideration, were in pursuance of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, it would be necessary to examine the provisions of both the Acts on the issue. In doing so we find that Section 18 of both

the Water Act, 1974 and Air Act, 1981 which are identically worded vests only the Central Board and State Government with the general power to give directions to the State Board as would appear from the provisions reproduced below :-

Water (Prevention and Control of Pollution) Act, 1974

" Section 18.

Power to give directions :- (1) In the performance of its functions under this Act-

- (a) The Central Board shall be bound by such directions in writing as the Central Government may give to it; and
- (b) Every State Board shall be bound by such directions in writing as the Central Board or the State Government may give to it.

Provided that where a direction given by the State Government is inconsistent with the direction given by the Central Board, the matter shall be referred to the Central Government for its decision."

2.

3.

4....."

31. While issuing the direction, the District Magistrate has not disclosed the source of the power under which he could issue such direction. In any case, such a direction could not have been issued as the activity of siding/stackyard, as already discussed, cannot be carried on without prior consent of the Board, being mandatory under the Air and Water Acts. Thus, direction of the District Magistrate issued upon the Regional Officer to allow operation of the siding unit pending grant of "consent to operate certificate" is bad in law and by doing so the

District Magistrate has unmistakably exercised a jurisdiction which he did not have.

32. The State Pollution Control Board, as would appear from their pleadings in their affidavit, had informed the Station Master, Jhakupura Railway Station, the Respondent No. 3, that under the guidelines dated 16.04.2010 issued by the State PCB, the Respondent No. 1, the railway siding having been established prior to the year 2008, it was necessary only to obtain consent to operate from the Board and, that for any such new project before consent to operate can be granted, it was mandatory to obtain consent to establish for which NOC from Sarpanch/concerned ULB was mandatory. That this position was in the knowledge of the respondent No. 3 would be evident from the fact he had informed the Board that since the commissioning of the unit prior to 2008, the railway was not required to submit NOC for consideration of application for consent to operate. It is of relevance to note that application for consent was filed by the railway before the Board on 20.2.2015 whereas the District Magistrate's direction to the Regional Officer that was issued on 16.03.2015 was much after.

33. By the same order dated 18.01.2016, we directed the District Magistrate and Collector, Jajpur, to explain

on oath the power vested in him under the Air Act, 1981 to issue direction to the Regional Officer, PCB to allow the railway to continue with their Loading and Unloading activities pending the grant of consent. The submissions made in the reply affidavit at page 320 of O.A to the queries from the Bench are as follows :-

- i) The Collector has no power to issue direction under the law. He has only to give no objection for the purpose of grant of consent to establish.
- ii) The Collector has not 'directed' but had only 'requested' the RO.
- iii) The letter of the Collector was never acted upon by the State Pollution control Board which was a mere recommendation having no effect unless it was approved and acted upon by the Authority concerned.

34. The explanation given in the affidavit obviously is contrary to the contents of the letter dated 16.03.2015 as would be apparent from a bare reading of the letter extracted earlier. It is difficult for us to accept that a District Collector, who presumably is a senior officer in the IAS cadre, is unable to distinguish between the words 'directed' and 'requested'. Even the third contention that the letter of the Collector was not given effect to is apparently incorrect as an inspection team, which

carried out an inspection, in their report has categorically referred to the letter of the Collector in the column for recommendation and, while revoking the closure order pending grant of consent, the Chairman, PCB, had taken into consideration the report of the inspection team upon which we shall allude to shortly hereafter.

We thus, find the reply of the district Collector to be grossly unsatisfactory and, in our considered opinion, the functioning of the District Collector in the matter to be most improper and left much to be desired.

35. On 25th March 2015 when the application of the railway siding unit seeking consent to operate was still pending, the Board conducted another inspection, as adumbrated above, by a team consisting of following scientists:-

1. Dr. Anup Kumar Mallik, Regional Officer
2. Dr. R.K.Mishra, Dy. Environmental Scientist
3. Sri Bhinsen Marndi, Asst. Environmental Scientist
4. Er. Soumendra Mohanty, Asst. Environmental Engineer.

The inspection report submitted by the team by

which the unit was found to be compliant is reproduced below:-

" INSPECTION REPORT OF M/S JAKHAPURA RAILWAY SIDING (EAST COAST RAILWAY) AT-JAKHAPURA, P.O.-JAKHAPURA, DIST.-JAJPUR

1	Date of Inspection	25-03-2015			
2	Name of Inspecting Officer	Dr. Anup Kumar Mallick, Regional Officer Dr. R.K.Mishra, Dy. Env. Scientist Sri Bhinsen Marndi, Asst. Env. Scientist Er. Soumendra Mohanty, Asst. Env. Engineer			
3	Nature of the Project	Private Railway siding for unloading & stacking of iron ore, coal dolomite and loading/dispatch of the same to the nearby industries through Trucks. The Jakhapura Railway unit has been operating its platform No. 6 for loading and unloading of minerals like iron ore, coal, dolomite etc. It has applied Consent to Operate to the Board.			
4	Person present during inspection	Sri R.N.Bala, Station Superintendent			
5.	Name & address of the Proponent/ Occupier	Shri Raghunath Panda, Station Manager Jakhapura Railway Station, East Coast Railway at Po-Jakhapura, Dist. Jajpur.			
6.	Project Details	Project Cost (Lacs)	Project Location	New/Expansion	Area in Acre
		38.638 Lakhs	Jakhapura Rly Siding	Existing siding Before 16.02.2008	Length 700m with 28m width which is concreted platform adjacent to line No. 6
7.	Project details for which CTE is applied	Principal projects/By project Railway siding for unloading & Stacking of iron ore, Iron Pellet, coal, Coke, dolomite, and Quartzite for Loading/dispatch of the same to the Nearby industries through Tricks Principal Raw Materials		Quantity per month 7698 MT/Day	
8.	Principal raw Material including fuels	Principal Raw Material Railway siding for unloading & stacking of iron ore, Iron Pellet, coal, coke, dolomite, and Quartzite for Loading/dispatch of the same to the nearby industries through Trucks		Quantity Per month 7698 MT/Day	

9.	Site description and its compliance to the notification by OSPCB during April 2008	<p>Nearby habitation detail E.W.N.S. direction (The habitation should be at safe distance)</p> <p>Nearby highway (The nearest highway should be at safe distance)</p> <p>Nearby Industries</p> <p>Water body (The nearest water body should be at safe distance)</p> <p>The site should be at least 1 km away from nearest school, College, Hospital, Archaeological monuments, market place and other sensitive areas</p>	<p>Jakhapura village is situated at North direction which is about 520 m distance from Railway track. Kendudhipi Village is situated at South West direction which is about 2 km distance from railway track. Rabana village is situated at West direction which is about 740 m distance from railway track</p> <p>Duburi Chandikhol Express highway is about 5.3 km.</p> <p>*Visa Steel Ltd. *Maithan Ispat Ltd. *Jindal Stainless Ltd. *Yajdani Steels Ltd. *Rohit Ferro Tech. Ltd. & MESCO Steels Ltd.</p> <p>Brahmani River is about 4 km distance</p> <p>There is no school, college, Hospitals, Archaeological monuments, market place and other sensitive areas within one km. There is one Temple near 60 m distance from the siding.</p>
10.	Air Pollution Control practices to be followed.	<ol style="list-style-type: none"> 1. During visit it was observed that Railway authority has concreted the entire platform of about 700 m with 28 m width. 2. The railway has provided garland drain of about 500 m with two nos. of setting pit. 3. Water sprinklers have been provided which will be used during loading and unloading of minerals. The water sprinklers are connected 	

		<p>through water tankers.</p> <p>4. Reportedly during operation all pollution control norms to be followed.</p> <p>5. Boundary wall of about 200 m constructed towards west side of the railway siding.</p> <p>6. The approach road connecting to the railway siding is black topped.</p>
11	Quality of water used in KLD	For dust suppression 150 Kl will be used during loading and unloading activities.
12	Conclusion	<ol style="list-style-type: none"> 1. Water sprinkling facility along the stockyard area 2. It has also provided two water tanker for spray of water along the roads. 3. It has provided Tarpaulin to cover the minerals 4. It has provided black topped and concrete road for transportation of raw materials. 5. It has constructed boundary wall of the passenger movement area.
13	Recommendation	As the railway authority have been arranged the pollution control measures and also proposed for adopting more pollution control measures, and as District Collector has given a letter for allowing the railway siding for time being, so the railway siding may be considered for allowing loading and unloading of minerals.

Sd/-
AEE
S. Mohanty

Sd/-
AES
B.Marndi

Sd/-
DES
R.K.Mishra

Sd/-
RO
A.K.Mallick "

36. Thus, we find from the above that in their report the team recommended allowing loading and unloading of minerals as the Railway authority had arranged for the pollution control measures and had also proposed for adopting more pollution control measures. As already observed earlier, the Inspection team has also referred to the letter of the District Magistrate.

37. The Member Secretary, PCB, Odisha, by a communication No. 6163/Ind./Con. 6458 dated 04.04.2015 much to our astonishment, revoked the stoppage/closure order only by taking into consideration the action by the railway for compliance of the statutory provision. It is pertinent to note that closure order was issued by the Board to the railway siding unit as it was a 'red category' unit admittedly operating without consent from the Board and also that there were violations of pollution norms. Once a closure order was issued for want of consent to operate as one of the reasons, the unit could not have been allowed to operate before grant of consent after due consideration of their pending application therefor by following the due process. We find it difficult to comprehend as to how the State Pollution Control Board could have revoked its own closure order issued against a red category industry which was admittedly operating from the beginning in violation of the requirements under the Air Act, 1981, the Water Act 1974 and in non-compliance of the mandatory consent management. The reply affidavit filed by the PCB that "considering the report of the inspection team, closure order was revoked", clearly shows that the Chairman, PCB did not follow the consent management rules and allowed the Railway to undertake Loading Unloading activities even when it had not been granted consent to operate. Clearly, therefore, the decision of the Chairman, State PCB, is

undeniably in violation of the environmental norms and is to be seriously deprecated.

38. Having discussed on the facts and circumstances in detail, we are of the considered view that -

(a) East Coast Railway is undeniably guilty of violation of the mandatory statutory provisions having breached the Environmental Laws, particularly, the Water Act, 1974 and the Air Act, 1981 by operating their units illegally from 2011, after the revised guidelines had come into force, without consent to operate from the State Pollution Control Board and, for contributing to air and water pollution thereby degrading the environment.

(b) The District Magistrate, Jajpur, has misused his power in directing the Regional Officer, State Pollution Control Board, to allow loading/unloading and transportation of raw materials at the railway siding in the absence of consent to operate from the Board.

(c) The Chairman and Member Secretary, State Pollution Control Board have not functioned in accordance with the power vested on them under the Water Act, 1974 and the Air Act, 1981 in revoking closure order issued against a non-compliant Unit operating without consent of the Board and the Board acted in haste and under

pressure in allowing the unit to continue operating illegally without consent of the Board.

DIRECTIONS :

39. For the reasons stated above we direct as follows:-

I. (i) The Govt. of Odisha through the Chief Secretary, shall seek appropriate explanation from the District Magistrate, Jajpur, for his misconduct in interfering with the functioning of the State Pollution Control Board and take suitable penal action against him.

(ii) The Govt. of Odisha through the Chief Secretary to constitute a High Power Committee to enquire into the action of the Chairman and Member Secretary, PCB, who have been delegated by the Board vide order No. 9832/Ind-I-CON- MISC-306 dated 25.1.2008, in revoking the closure order and thereby allowing the Railway siding at Jakhapura to undertake the activities in the absence of consent to operate certificate of the Board and, recommend appropriate action against them to the Government.

(iii) The allegation of the applicant that VISA Steel has been contributing to air pollution and damage to village roads for transporting raw materials by uncovered vehicles has been opposed by VISA Steel, the respondent No. 5. From the

letter of the Station Manager, Jakhapura Railway station, it is revealed that many other companies have also engaged vehicles for transportation of raw materials. Besides, as per the affidavit of respondent No. 5, the Jajpur Cluster Development Activity maintains the road. The VCRs, issued by the traffic Department also do not indicate anything against VISA Steel. Therefore, we do not pass any order against respondent No. 5.

II. (i) We find, and admittedly so, that the East-Coast Railway has committed breach of both the Water Act, 1974 and the Air Act, 1981 and contributed to air and water pollution in the area since last five years till the last inspection conducted by the Board on 25.3.2015. In all previous inspections by the Board, the Unit had been found in default in the adoption of pollution control measures. The applicant has also alleged pollution of environment and reduction in agriculture productivity due to siding activities of East Coast Railway which has not been opposed by either the PCB or by the railway. Because of railway-siding activities in the absence of valid consent to operate from the State Pollution control Board and also in the absence of regular monitoring by the Board, the ore dust emissions, which largely contain toxic heavy metals, exceeding the permissible norms are bound to cause environmental

imbalance affecting the primary productivity, soil fertility, water quality and health of the people in the locality.

Keeping these factors in mind, the Tribunal has to invoke the "Polluter Pays" principle. The source of pollution is obviously attributable to the operation of railway siding illegally for loading and unloading of minerals which has led to adverse impacts on environment and public health. Thus the East Coast Railway is liable to pay environmental compensation on the principle of "Polluter Pays".

'Polluter Pays" principle, which is an overarching principle, mandates the polluter to bear the cost of pollution, prevention, control and reduction measures. This principle is an integral component of sustainable development. The Apex Court of India in **Indian Council for Enviro-Legal Action –vs- Union of India: (1996) 3 SCC, Karnataka Industrial Area Development Board –vs- C. Kenchappa: (2006) 6 SCC 371, M.C.Mehta –vs- Union of India: (2006) 3 SCC 399**, has held that the "remediation of the damaged environment is a part of the process of sustainable development and as such the polluter is liable to pay the cost to the individual sufferer as well as the cost of reversing the damaged ecology."

Similarly in **Hindustan Coca Cola Beverages Pvt. Ltd.-vs- West Bengal**, it has been held that "it is no more *res integra*, with regard to the legal proposition, that a polluter is

bound to pay and eradicate the damage caused by him and restore the environment.

We may also refer to judgement dated 22.07.2013 in the case of **Manoj Mishra –vs- Union of India** decided by the Principal Bench of NGT in which the 'polluter pays' principle was applied while directing payment of compensation for dumping debris and construction wastes on the bank of the river Yamuna.

(ii) Therefore, we direct that East Coast Railway Division at Chandrasekharapur, Bhubaneswar, under whose authority the illegal railway siding was in operation at Jakhapura railway station, to pay environmental compensation of Rs. 50.00 lakhs @ Rs. 10.00 lakhs per annum for the five years of violation of Environmental norms, which shall be paid within a period of two months to the District Magistrate, Jajpur, who will spend Rs. 25.00 lakhs on infrastructure development of Primary Health Centre (PHC) at Jakhapura towards the cost of building, laboratory and instruments and the remaining Rs. 25.0 lakhs towards improving the environment in and around the railway siding and, for sanitation, supply of drinking water, etc., in the affected village.

(iii) Besides this, we also direct the East-Coast Railway to pay Rs. 1.0 lakh cost to the Applicant, Shri Aswini

Kumar Dhal, who had filed the application seeking to restrain the East Coast Railway from allegedly emitting harmful air pollutants in violation of environmental norms.

(iv) The East-Coast Railway, Bhubaneswar, the District Magistrate, Jajpur, the State Pollution Control Board, Bhubaneswar and the Chief Secretary, Govt. of Odisha are directed to file their respective affidavit on compliance of this order within three months in the Registry of the Tribunal.

(v) It is further directed that the railway siding at Jakhapura railway station shall remain closed till consent to operate is granted by the Board after being fully satisfied that all pollution control measures are in place.

40. With the above directions this application stands disposed off.

.....
Justice S.P.Wangdi (JM)

.....
Prof.(Dr.) P.C.Mishra(EM)

Kolkata

Dated : 25th May, 2016

TRUE COPY

दिनांक: 01.10.2022 ।

सेवा में,

Annexure R-4

श्रीमान क्षेत्रीय अधिकारी

(उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड)

जे-1, ज्ञान सरोवर कॉलोनी, रामघाट रोड, अलीगढ़

विषय :- मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित ओ.ए.न. - 537/2022 श्री मुकेश चौहान बनाम उ० प्र० राज्य में पारित आदेश दिनांक 05.09.2022 के सम्बन्ध में।

संदर्भ :- पत्रांक 1994/AJ-397/2022 दिनांक 26.09.22 जो कि दिनांक 30.09.2022 को प्राप्त हुआ है।

महोदय,

उपरोक्त विषयक एवं पत्र के संदर्भ में, हम आपके समक्ष, आपके द्वारा दिनांक 26.09.2022 को जारी पत्र जो कि मा० राष्ट्रीय हरित अधिकरण नई दिल्ली में योजित ओ.ए.न.-537 / 2022 श्री मुकेश चौहान बनाम उ० प्र० राज्य में पारित आदेश दिनांक 05.09.2022 के साथ एक शिकायती पत्र के संदर्भ में दिया गया है तथा शिकायती पत्र में उल्लेखित है कि ग्राम -साथा के नजदीक हरदुआगंज रेलवे स्टेशन है। जे०के० कम्पनी व अन्य कम्पनियों द्वारा सीमेंट बनाने के लिए क्लिंकर मंगाया जाता है स्टेशन पर जब क्लिंकर खलते / मरते समय आंधी का वातावरण बन जाता है। यह क्लिंकर रासायनिक होने के कारण पशु पक्षियों एवं जनता के लिए हानिकारक है एवं इकाईयों द्वारा किन - किन एजेन्सी के माध्यम से हरदुआगंज रेलवे स्टेशन से क्लिंकर मंगाया जा रहा है उन एजेन्सियों के द्वारा क्या राज्य बोर्ड से सहमति (जल / वायु) प्राप्त की गयी है एवं एजेन्सी द्वारा धूल के नियंत्रण हेतु किया उपाय किये गये है एवं उक्त एजेन्सी कब से कार्यरत है।

श्रीमान जी को अवगत कराना चाहते हैं कि हरदुआगंज रेलवे साइडिंग भारतीय रेलवे का परिसर है जिसमें मंगलम सीमेंट लिमिटेड सहित अन्य कम्पनियों को क्लिंकर अनलोडिंग व लोडिंग की रेलवे द्वारा अनुमति प्रदान की गई है जिसके अंतर्गत क्लिंकर अनलोडिंग व लोडिंग, रेलवे के दिशानिर्देशों के अनुसार किया जा रही है।

कम्पनी मंगलम सीमेंट लिमिटेड द्वारा हरदुआगंज रेलवे स्टेशन से क्लिंकर अनलोडिंग / लोडिंग व शिफ्टिंग का कॉन्ट्रैक्ट M/s. P & P Exim PVT LTD, Sootmill Choraha Aligarh -202001

Aligarh Grinding Unit : K-1, CDF Complex, Anoop Shahar Road, Chhapra Gaon, Aligarh - 202122 (U.P.)
Central Marketing Office : 2nd Floor, Gaejgarh Tower, Haws Sadak, Jaipur-302006 (Raj.)
Rgd, Office & Works : PO - Aditya Nagar, Morak, Distt. Kota-326520 (Raj.)
T. 07459-232812, Fax : 07459-232150, Email: marketing@mangalamcement.com

Off - Dhawani 19660001155
Call : 0549924902122
Website : www.mangalamcement.com
Email : aligarh@www.mangalamcement.com

(U.P) को दिया है एवं एजेन्सी द्वारा क्लिकर अनलोडिंग / लोडिंग के समय होने वाले वायु प्रदूषण को नियंत्रण करने हेतु नियमित रूप से सड़को व अन्य सम्भावित क्षेत्रों में पानी का छिड़काव सुचारु रूप से किया जा रहा है एवं शिफ्टिंग के समय क्लिकर को तिरपाल द्वारा ढक कर लाया जाता है आगे के लिए भी सुनिश्चित किया गया है।

M/s. P & P Exim PVT LTD , Sootmill Choraha Aligarh -202001 (U.P) द्वारा पिछले छः वर्ष से हरदुआगंज रेलवे स्टेशन से क्लिकर अनलोडिंग / लोडिंग व शिफ्टिंग का कार्य हरदुआगंज रेलवे के दिशानिर्देशों के अनुसार की जा रही है।

उपरोक्त को ध्यान में रखते हुए हमारे इकाई मंगलम सीमेंट लिमिटेड द्वारा रेलवे साइडिंग पर 101 पीधों का सघन वृक्षारोपण किया जाना सुनिश्चित किया गया है।

उपरोक्त संदर्भ में यह सुनिश्चित करते हैं कि मंगलम सीमेंट लिमिटेड के M/s. P & P Exim PVT LTD , Sootmill Choraha Aligarh -202001 (U.P) द्वारा हरदुआगंज रेलवे अनलोडिंग / लोडिंग साइडिंग पर वायु उत्सर्जन रोकने के लिए सभी उपाए किये हैं और भविष्य में भी आपके सुझाव के अनुसार कार्य करते रहेंगे आशा करते हैं कि उपरोक्त सभी बिंदुओं की अनुपालना की गई है।

भवदिय,
कृते मंगलम सीमेंट लिमिटेड,



(अधिकृत हस्ताक्षर)

प्रतिलिप:-

1. मुख्य पर्यावरण अधिकारी (वृत्त - 4), उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड, लखनऊ को सूचनार्थ सादर प्रेषित।

TRUE COPY



दिनांक : 30.12.2022

सेवा में
श्रीमान क्षेत्रीय अधिकारी
(उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड)
जे -1 ज्ञान सरोवर कॉलोनी, रामघाट रोड, अलीगढ़

Annexure R-5

विषय :- मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या- 537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेशदिनांक 05.09.2022 के अनुपालन के सम्बन्ध में।

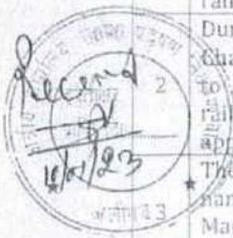
सन्दर्भ :- पत्रांक 2256/OA-253/2022 दिनांक 14.11.2022 जो कि दिनांक 16.12.2022 को प्राप्त हुआ है।

महोदय,
उपरोक्त विषयक एवं पत्र के सन्दर्भ में हम आपके समक्ष आपके द्वारा दिनांक 14.12.2022 को जारी पत्र जो कि मा०राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या -537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किये गये संयुक्त निरीक्षण दिनांक 10.11.2022 के सन्दर्भ में दिया गया है एवं संयुक्त निरीक्षण आख्या में दी गयी Recommendation, Concluding Remark के अनुसार आवश्यक कार्यवाही हेतु निर्देशित किया गया है।

श्रीमान जी को अवगत कराना चाहते हैं कि हरदुआगंज रेलवे साइडिंग भारतीय रेलवे का परिसर है जिसमें मंगलम सीमेंट लिमिटेड सहित अन्य कम्पनियों को क्लिंकर अनलोडिंग व लोडिंग की रेलवे द्वारा अनुमति प्रदान की गई है जिसके अंतर्गत क्लिंकर अनलोडिंग व लोडिंग रेलवे के दिशानिर्देशों के अनुसार की जा रही है।

मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या -537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेशदिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किये गये संयुक्त निरीक्षण आख्या में दी गयी Observation & Recommendation के अनुसार आवश्यक कार्यवाही निम्नानुसार कर रहे हैं :-

Sr. No.	Observations & Recommendation	MCL Reply
Observations		
1	The clinker was unloaded manually from wagons at approx .650 meter -long line no. 14 of Harduaganj railway station which is further loaded on trucks through JCB and transported to (02) cement plant namely M/s J. K. Cement Limited and M/s Mangalam Cement Limited located at approx 1.5 km and approx 6 km from the Harduaganj railway station respectively.	Harduaganj Siding is owned by Indian Railways, its operations are under their guidelines. To ensure fulfillment of all respective applicable rules and regulation updated time by time by Railways we have given contract to "M/s P&P Exim Pvt. Ltd.", along with handling and transfer clinker from Siding to our plant.
2	During visit applicant (Mukesh kumar Chauhan) was connected telephonically to associate with joint committee at railway site but applicant had not appeared at railway site.	Not Applicable (Applicable Only for Applicant-Mukesh Kumar Chauhan)
3	The processing capacity of cement plant namely M/s. J K Cement Limited and M/s. Mangalam cement limited are 1.5 million ton per year and 1.2 million ton per year	Point Noted



Aligarh Grinding Unit
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Regd. Office & Works
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2nd Floor, Geegarth Tower, Hawa Sadak, Jaipur-302006 (Raj.)
P.O. - Aditya Nagar, Morak, Distt. Kota-326920 (Raj.)

CIN : L26943RU1976PLC001705
GSTIN : 09AABC6602Q1Z2
Website : www.mangalamcement.com
E-mail : aligarhgrinding@mangalamcement.com

Page-01 of 0604

	respectively.	
4	During visit, the platform area near line no. 14 was found unpaved, which is also cause of fugitive emission during transportation.	Maintenances of station area are under Indian Railways control. We have deputed a water Tanker with tractor & Fogger machine (Under our contractor supervision) at site to assure the dust suppression.
5	Fugitive emission was observed while unloading and loading of clinker at station.	We have deputed a water Tanker with tractor & Fogger machine Fogger machine (Under our contractor supervision) at site to assure the dust suppression.
6	No worker was found using proper protective equipment (PPE's) while loading and unloading activities	Contractor has distributed PPE's, to be used by their workmen while working. HEMM deputed at site are having AC cabin for operator while working.
7	During visit it is observed that one antismog gun is available for the dust suppression which was found non operational.	Contractor has been instructed to use Fogger Machine during clinker handling at site.
8	During visit a water tanker was found operational for sprinkling of water on road of railway siding. Water was extracted through a pumping set from the bore well. No flow meter was installed at bore well and no permission was obtained for the same for extraction of ground water.	Bore well is under the Railway Jurisdiction and we have very limited access to it .
9	During visit it is observed that covering of green color clothes of height approx 20 feet and length approx 300 meters was placed at one side of station as temporary arrangement for control of dust emission covering of green color clothes for other side of station was under progress.	Green curtains have been provided on both sides.
10	No permanent system for dust suppression was observed at railway station. Existing system for the fugitive emission control is observed to be inadequate and improper.	Harduaganj Siding is owned by Indian Railways. We have deputed a water Tanker with tractor & Fogger machine (Under our contractor supervision) at site for dust suppression.
11	As per specific condition no. 15 of consent issued to M/s J. K. Cement Limited under section 21/22 of Air (Prevention and control of pollution Act, 1981 Industry shall focus on the different un-assessed source of air pollution in bagging plant and accordingly make a pucca arrangement to control the cement dust generating from loading of trucks/railway wagon. Copy of consent issued to both the cement plant is annexed as Annexure-2	Point noted

12	Air ambient quality stations have been installed at two (02) locations near the station and Satha village as per availability of power connection. Sample is analyzed by UPPCB test result is as below:	Point noted.																													
	<table border="1"> <thead> <tr> <th colspan="3">Location 1 Village Satha, Tehsil Koli, District Aligarh</th> </tr> <tr> <th>Parameters</th> <th>24 Hours average value ($\mu\text{g}/\text{m}^3$)</th> <th>Prescribed standards ($\mu\text{g}/\text{m}^3$)</th> </tr> </thead> <tbody> <tr> <td>PM-10</td> <td>703.86</td> <td>250</td> </tr> <tr> <td>SO₂</td> <td>13.3</td> <td>80</td> </tr> <tr> <td>NO₂</td> <td>28.2</td> <td>80</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th colspan="3">Location 2 Near Harduaganj Railway station, Tehsil Koli, District Aligarh</th> </tr> <tr> <th>Parameters</th> <th>24 Hours average value ($\mu\text{g}/\text{m}^3$)</th> <th>Prescribed standards ($\mu\text{g}/\text{m}^3$)</th> </tr> </thead> <tbody> <tr> <td>PM-10</td> <td>174.21</td> <td>250</td> </tr> <tr> <td>SO₂</td> <td>14.3</td> <td>80</td> </tr> <tr> <td>NO₂</td> <td>25.2</td> <td>80</td> </tr> </tbody> </table>	Location 1 Village Satha, Tehsil Koli, District Aligarh			Parameters	24 Hours average value ($\mu\text{g}/\text{m}^3$)	Prescribed standards ($\mu\text{g}/\text{m}^3$)	PM-10	703.86	250	SO ₂	13.3	80	NO ₂	28.2	80	Location 2 Near Harduaganj Railway station, Tehsil Koli, District Aligarh			Parameters	24 Hours average value ($\mu\text{g}/\text{m}^3$)	Prescribed standards ($\mu\text{g}/\text{m}^3$)	PM-10	174.21	250	SO ₂	14.3	80	NO ₂	25.2	80
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SO ₂	14.3	80																													
NO ₂	25.2	80																													
13	It is evident from the above result PM-10 is not meeting with prescribed limit of ambient air quality in both the locations. Test reports is annexed as Annexure-3	Point Noted																													

Sr. No	Recommendation	MCL Reply
1	Railway authority in cooperation with concerned cement industry must develop proper and permanent facility to control and suppress the fugitive dust emission generation while loading, un-loading and transportation of clinker at line no. 14 of Harduaganj railway station. An action plan should be submitted in this regard to SPCB.	Harduaganj Siding is owned by Indian Railways, its operations are under their guidelines. To ensure fulfillment of all respective applicable rules and regulation updated time by time by Railways we have given contract to "M/s P&P Exim- Pvt. Ltd.", along with handling and transfer clinker from Siding to our plant.
2	The platform area near the line no. 14 should be paved to avoid fugitive emission while movement of trucks.	Harduaganj Siding is owned by Indian Railways, We have deputed a water Tanker with tractor & Fogger machine (Under our contractor supervision) at site to assure the dust suppression.
3	Regular water sprinkling should be done on the roads and platform area to suppress dust.	We have deputed a water Tanker with tractor & Fogger machine (Under our contractor supervision) at site to assure the dust suppression.
4	Industries/ railway authority should carry out monthly ambient air quality monitoring near station area and submit compliance report to UPPCB.	Point noted.
5	Industries should comply specific condition no. 15 of consent under section 21/22 of Air (Prevention and control of pollution) Act, 1981 i.e. Industry shall focus on the different un-assessed source of air pollution in bagging plant and accordingly make a pucca arrangement to	Industry has implemented all the best available measures to control the dust from loading & unloading which are given as below : • All raw materials are being stored in covered yard & Silos and belt conveyors have been covered by GI sheet.

	control cement dust generating from loading of trucks/railway wagons.	<ul style="list-style-type: none"> • We have installed Bag Filters at all transfer points of raw material handling for control fugitive dust emission. • All dust collected in bag filters have been totally recycled and being reused in the plant process. • Water sprinkling is being done on plant roads. • All roads are paved inside the plant. • Using sweeping machine to clean and collect the dust on plant roads.
6	Assessment of environmental compensation due to loading and unloading of clinker at railway station should be carried out by SPCB and accordingly environmental compensation should be imposed.	Harduaganj Siding is owned by Indian Railways, its operations are under their guidelines. Although we are already doing best available measures (to cover the loss at site) at site like Tree plantation, Green curtain, water sprinkling Anti fog machine etc. at Harduaganj railway station. Hence, imposing environmental compensation should not be considered in this case.
7	Permission from CGWA for extraction of ground water should be taken as per rule.	This siding is under the Railway Judriction.

उपरोक्त सन्दर्भ में श्रीमान जी से निवेदन है कि हमारी इकाई मंगलम सीमेंट लिमिटेड द्वारा उपरोक्त सभी बिन्दुओं का क्रमबद्ध स्वीकारण दिया है और भविष्य में भी आपके सुझाव के अनुसार कार्य करते रहेंगे।

भवदीय

कृते मंगलम सीमेंट लिमिटेड, अलीगढ़

(अधिकृत हस्ताक्षर)

प्रतिलिपि -

1. मुख्य पर्यावरण अधिकारी (वृत्त -4), उ० प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ

Handwritten signature

Page- 04 of 04

TRUE COPY

मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ.ए. संख्या-537/2022 मुकेश कुमार चौहान बनाम स्टे ऑफ यू.पी. में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित संयुक्त कमेटी द्वारा शिकायती स्थल का निरीक्षण दिनांक 10.11.2022 को किया गया। निरीक्षणोपरान्त प्राप्त प्रतिउत्तर के सन्दर्भ में निरीक्षण आख्या।

कृपया उपरोक्त विषयक के सम्बन्ध में मै० जे०के० सीमेन्ट लि०, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़, मै० मंगलम सीमेन्ट, सी०डी०एफ० कॉम्प्लेक्स, छेरत, अनूपशहर रोड, तहसील-कोल, जनपद-अलीगढ़, मै० विजन नेक्स्ट रोड लाइन, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ एवं मै० पी एण्ड पी एकजिम प्रा०लि०, सूतमिल चौराहा, जनपद-अलीगढ़ को इस कार्यालय के पत्र संख्या-2256 दिनांक 14.12.2022 के माध्यम से संयुक्त निरीक्षण आख्या दिनांक 10.11.2022 को पत्र के साथ संलग्न कर प्रेषित की गयी थी। मै० जे०के० सीमेन्ट लि०, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ एवं मै० विजन नेक्स्ट रोड लाइन, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ द्वारा अपना प्रतिउत्तर कार्यालय में दिनांक 27.12.2022 एवं दिनांक 05.01.2023 को प्राप्त कराया गया है। प्राप्त प्रतिउत्तर के सन्दर्भ में नेक्स्ट रोड लाइन, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ में प्रतिनिधि के रूप में श्री उपेन्द्र कुमार, डायरेक्टर उपस्थित मिले। विस्तृत निरीक्षण आख्या निम्नवत् है-

1. निरीक्षण के समय रेलवे स्टेशन, हरदुआगंज रेलवे साइडिंग के लाइन नं०-14 के किनारे स्थित लोडिंग/अनलोडिंग एरिया में 02नग टैंकर के माध्यम से वाटर स्प्रेकलिंग का कार्य होता हुआ पाया गया।
2. निरीक्षण के समय लोडिंग/अनलोडिंग साइट पर 02नग पोर्टेबल एन्टी स्मॉगन स्थित पाये गये एवं दोनों एन्टी स्मॉगन से जल छिड़काव होता हुआ पाया गया। निरीक्षण के समय उपस्थित प्रतिनिधि मै० विजन नेक्स्ट रोड लाइन द्वारा अवगत कराया गया कि एन्टी स्मॉगन मशीन फर्म द्वारा क्रय किया गया है। टैक्स इन्वाइस की छायाप्रति संलग्न है।
3. निरीक्षण के समय उपस्थित प्रतिनिधि मै० विजन नेक्स्ट रोड लाइन द्वारा मै० इन्चायरो टैंक सर्विसेस, प्लॉट संख्या-132, एस.एस. ऑफ जी०टी० रोड, औद्योगिक क्षेत्र, गाजियाबाद द्वारा हरदुआगंज रेलवे स्टेशन एवं ग्राम-साथा का परिवेशीय वायु गुणता का अनुश्रवण लोडिंग एवं अनलोडिंग दोनों स्थितियों में कराया गया है। छायाप्रति संलग्न है।
4. निरीक्षण के समय रेलवे स्टेशन हरदुआगंज के रेलवे साइडिंग एवं वाहनों के आवागमन हेतु मार्ग कच्चा होने के कारण डस्ट/धूल उड़ना स्वाभाविक है। निरीक्षण के समय उपस्थित प्रतिनिधि मै० विजन नेक्स्ट रोड लाइन द्वारा अवगत कराया गया कि उक्त रास्ता एवं रेलवे साइडिंग को पक्का बनाने हेतु रेलवे द्वारा कार्य किया जाना है।
5. निरीक्षण के समय हरदुआगंज रेलवे साइडिंग पर वाहनों के आवागमन एवं लोडिंग/अनलोडिंग से जनित फिजियूटिव डस्ट के नियंत्रण हेतु रेलवे स्टेशन की पूरब एवं पश्चिम दिशा साइट से लगभग-20 फीट ऊँची 600 मीटर दोनों तरफ लम्बी अस्थाई ग्रीन नेट से बाउण्ड्री से कवर्ड किया गया (फोटोग्राफ संलग्न है)।
6. निरीक्षण के समय मालगाड़ी/रैक मौजूद न होने के कारण अनलोडिंग का कार्य होता हुआ नहीं पाया गया। किन्तु लोडिंग कार्य हो रहा था। निरीक्षण के समय लोडिंग के दौरान बर्कर द्वारा उपयुक्त पी०पी०ई० का प्रयोग होता हुआ नहीं पाया गया।
7. निरीक्षण के समय रेलवे साइडिंग पर स्थित बोरवेल पर पम्प सेट स्थापित पायी गयी। उक्त बोरवेल से पानी दोहन की अनुमति जिला स्तरीय भूगर्भ जल प्राधिकरण अलीगढ़ से प्राप्त किया गया है अथवा नहीं के सम्बन्ध में कोई अभिलेख प्रस्तुत नहीं किया गया है।
8. निरीक्षण के समय उपस्थित मै० विजन नेक्स्ट रोड लाइन द्वारा अवगत कराया गया कि रेलवे साइडिंग हरदुआगंज पर स्थित उक्त बोरवेल रेलवे का है। जल दोहन की अनुमति रेलवे को प्राप्त करनी है एवं हमारे द्वारा पानी के छिड़काव हेतु मै० जे.के.सीमेन्ट उद्योग से पानी के टैंकर भरकर लाया जाता है।

आख्या आपके अवलोकनाथ एवं अग्रिम आवश्यक कार्यवाही हेतु सादर प्रेषित।

(उपेन्द्र प्रसाद)
अवर अभियन्ता

(अजय कुमार)
सह०पर्या०अभि०

(डॉ० जे०पी० सिंह)
क्षेत्रीय अधिकारी (प्र०)
(डॉ० जे०पी० सिंह)
क्षेत्रीय अधिकारी (प्र०)

उ०प्र० प्रदूषण नियंत्रण बोर्ड,
अलीगढ़

Pending OA No.-537 / 2022 Mukesh Kumar Chauhan vs. State of U.P. in Hon'ble National Green Tribunal, New Delhi. The inspection of the complaint site was done on 10.11.2022 by the joint committee formed in compliance of the order dated 05.09.2022 passed in Inspection report with reference to the reply received after the inspections.

Regarding the above subject, M/ s J.K. Cement Ltd. Village Satha, Kasimpur Road, Tehsil- Coil, District Aligarh, M/ s Mangalam Cement, CDF Complex, Cherath, Anupsahar Road, Tehsil- Col, District Aligarh, M/ s Vision Next Road Line, Village- Satha, Kasimpur Road, Tehsil- Koil, District Aligarh and M/ s P&P Exim Pvt. Ltd, Sutmil Chauraha, District Aligarh, through this office's letter no.- 2256 dated 14.12.2022 along with the joint inspection report dated 10.11.2022 Sent attached. M/ s J.K. Cement Ltd. Village Satha, Kasimpur Road, Tehsil- Koil, District Aligarh and M/ s Vision Next Road Line, Village- Satha, Kasimpur Road, Tehsil- Koil, District Aligarh in their reply office dated 27.12.2022 and dated 05.01.2023 has been received. With reference to the reply received, the inspection of the referenced site was done by this office on 09.01.2023. At the time of inspection Mr. Upendra as a representative in M/ s Vision Next Road Line, Village- Satha, Kasimpur Road, Tehsil- Koil, District Aligarh. Shri Upendra Kumar, Director was present. The detailed inspection report is as follows-

1. At the time of inspection, the railway station was situated on the side line no. 0-14 of Harduaganj railway siding. Water sprinkling work was found to be done through 02 tankers in the loading/ unloading area.
2. At the time of inspection, two nos. of portable anti smoggun were found located at the loading/ unloading site and water sprinkling was found to be done by both of the anti smoggun. The representative present at the time of inspection was informed by Mr. Vision Next Road Line that Anti Smogon Machine has been purchased by the firm. Photocopy of tax invoice is attached.
3. At the time of inspection M/ s Vision Next Road Line No-132, S.S. Off GT Road, Industrial Area, Ghaziabad by Harduaganj Railway Station and Monitoring of ambient air quality of Village- Satha was done in both loading and unloading conditions. Is Photocopy is attached.
4. At the time of inspection, it is natural for dust/ dust to fly due to the railway siding of Harduaganj railway station and the road being unpaved for vehicular traffic. The representative present at the time of inspection was informed by M/ s Vision Next Road Line that work has to be done by the Railways to make the said road and railway siding .
- 5 Generated by the movement of vehicles and loading / unloading on Harduaganj railway siding at the time of inspection to control the fugitive dust, the eastern and western sides of the railway station were

covered from the boundary with a long temporary green net about 20 feet high 600 meters on both sides (Photograph attached).

- 6 Due to non- availability of goods train/ rack at the time of inspection, the work of unloading could not be done. Gone. But the loading work was going on. At the time of inspection, suitable PPE was not found to be used by the worker during loading.
- 7 At the time of inspection, pump set was found installed on the borewell located on the railway siding. From the said borewell no record has been presented regarding whether the permission for water exploitation has been obtained from the District Level Ground Water Authority, Aligarh or not.
- 8 It was informed by M/ s Vision Next Road Line, present at the time of inspection, that the said borewell located at Harduaganj railway siding belongs to the Railways. Railway must get the permission for water harvesting and M/s J.K. Cement Water tankers are brought from J K cement industry. The report is sent with respect for your perusal and further necessary action.

SD/
(Upendra Prasad)
Sr. Engineer

SD/-
(Ajay Kumar)
Addl. Environment Engineer

SD/-
(Dr. J P Singh)
Regional Officer
UP PCB, Aligarh

J.K. Cement Report


TRUE COPY

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 537/2022**

IN THE MATTER OF:

Mukesh Kumar Chouhan

.... APPELLANT

VERSUS

State of U.P.

.... RESPONDENT

VAKALATNAMA

Know all to whom these presents shall come that I,

. Respondent No. 6 M/s Mangalam Cement in the above captioned case do hereby appoint

**KESHAV GARG
ADVOCATE
A-22, GROUND FLOOR, DEFENCE COLONY,
NEW DELHI-110024
MOBILE NO 7999999240
D/5270/2022**

Advocates, to be my/ our true and lawful attorney (s), in the matter noted above, to do all the following acts, deeds and things, or any of them, (jointly and severally) and also ratify anything already done on our behalf that is to say: -

1. To sign, verify and present and send notices, replies rejoinders, pleadings, appeals, cross-objections or petitions for execution, review, revision, other petitions or affidavit or other documents as shall be deemed necessary or advisable for the prosecution of the case or in relation thereto in all its stages.
2. To appear, act, and plead in the above-mentioned case in any court or tribunal etc, in which the same be heard or tried in the 1st instance or in appeal or review or revision or execution or in any other stage of its progress until its final decision.
3. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise to or in any manner relating to the said case.
4. To receive documents, papers, records, orders etc. and to do all other acts all things, which may be necessary or proper to be done for the progress and in all course of the prosecution of the said case.
5. To employ any other legal practitioner, advocate or consultant authorizing him to exercise the power and authority hereby conferred on the Advocate (s) whenever he/they may think fit to do so.

And I/We hereby agree that whatever the Advocate (s) or his/ there substitute shall do in the premises shall be binding on me in all intents and purposes just as if it would have been done by me.

And I/We hereby agree not to hold the Advocate (s) or his/their substitute responsible for the said case in consequence of his absence from the court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/ us to be paid to the Advocate (s) remaining unpaid he/they shall be entitled to withdraw from the prosecution of the said case, or not to appear until the same is paid.

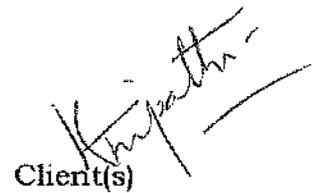
In witness whereof I/We hereunto set my/our hand to these presents the contents of which have been explained to and understood by me/us.

Date: 27 January 2023

Advocate (s)



Keshav Garg
D/2570/2022
7999999240



Client(s)



ANNEXURE R-3

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...Applicant

VERSUS

State of U.P. & Ors.

...Respondents

INDEX

S. No.	Particulars	Page No.
1.	ACTION TAKEN REPORT ON BEHALF OF RESPONDENT NO. 6 IN COMPLIANCE WITH ORDER DATED 20.02.2023, IN O.A. NO. 537 OF 2022 PASSED BY THIS HON'BLE TRIBUNAL.	1-14
2.	ANNEXURE -1 Copy of the latest Photographs of the site.	15-19
3.	Annexure- 2 Copy of monthly compliance reports submitted to UPPCB (March, 2023 and April 2023)	20-23

Place: New Delhi

Date: 20/05/2023

RESPONDENT No. 6 THOROUGH

Keshav Garg

ADVOCATE

D-190, Second Floor,

DEFENCE COLONY,

NEW DELHI-110024

PHONE: +91 7999999240

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...Applicant

VERSUS

State of U.P. & Ors.

...Respondents

**ACTION TAKEN REPORT ON BEHALF OF RESPONDENT NO.
6 IN COMPLIANCE WITH ORDER DATED 20.02.2023, IN O.A.
NO. 537 OF 2022 PASSED BY THE HON'BLE NATIONAL GREEN
TRIBUNAL.**

MOST RESPECTFULLY SHOWETH

1. This Action Taken Report is filed on behalf of the Respondent No. 6, Project Proponent i.e. M/s Mangalam Cement Ltd. in furtherance of the order dated 20.02.2023 of the Hon'ble National Green Tribunal in the matter O.A. No. 537 of 2022.
2. It is respectfully submitted that in compliance with the order of the Hon'ble National Green Tribunal in the matter O.A. 537 of 2022

dated 05.09.2022, the Joint Committee was directed to send copy of its report to the concerned Project Proponents and in compliance of the above-said order, copies of the reports of the Joint Committee were sent to all the Project Proponent and copy of report was served on the Railways through Station Superintendent, Harduaganj Railway Station, Harduaganj, District Aligarh, Uttar Pradesh. No objections to the reports of the Joint Committee were filed on behalf of the Project Proponent, particularly, the DRM, North-Central Railway Zone, Prayagraj Division, Uttar Pradesh.

3. In view of the above, the Hon'ble National Green Tribunal vide its order dated 20.02.2022 directed the Project Proponents, including the DRM, North-Central Railway Zone, Prayagraj Division, Uttar Pradesh to take appropriate steps for implementation of the recommendations made by the Joint Committee and file their Action Taken Reports within three months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.
4. In compliance with the Hon'ble National Green Tribunal's order dated 20.02.2022, the following Actions have been taken against the observation/ recommendation of the Joint Committee:

S. No.	Observation/ Recommendation in letter dated 14.12.2022	Compliance Status as on 15.05.2023
1.	<p>The clinker was unloaded manually from wagons at .650-meter-long line no. 14 of Harduaganj railway station which is further on trucks through JCB and transported to (02) cement plant namely M/s. JK Cement Limited and M/s. Mangalam Cement Limited located at approx. 1.5 km and approx. 6 km from the Harduaganj railway station respectively.</p>	<p>Harduaganj Siding is owned by Indian Railways, its operation are under their guidelines.</p> <p>To ensure fulfilment of all respective applicable rules and regulations updated time by time by Railways we have given contract to M/s P&P Exim Pvt. Ltd.”, along with handling and transfer clinker from Siding to our plant.</p>
2.	<p>During visit, applicant was connected telephonically to associate with joint committee</p>	N/A

	at railway site but applicant had not appeared at railway site.	
3.	The processing capacity of cement plant M/s. JK Cement Limited and M/s. Mangalam Cement Limited are 1.5 million ton per year and 1.2 million ton per years respectively.	The point is a statement of fact.
4.	During visit, the platform near line no. 14 was found unpaved, which is also cause of fugitive emission during transportation.	Maintenances of the station area are under Indian Railway's control. However, water tanker along with tractor and fogger machine (under contractor's supervision) have been deputed at the site to assure the dust is suppressed. Photographs has been attached as Annexure -1

5.	Fugitive emission was observed while unloading and loading of clinker at station.	Water tanker along with tractor and fogger machine (under our contractor's supervision) have been deputed at the site to assure the dust is suppressed. Photographs has been attached as Annexure -1
6.	No worker was found using Proper Protective Equipment (PPEs) while loading and unloading activity.	The contractor has distributed PPEs, to be used by their workmen while working.
7.	During visit, it is observed that one antismog gun is available for dust suppression which was found non- operational.	Proper instructions were given to the contractor to use the fogger machine during clinker handling at the site and the same has been complied with.
8.	During visit, a water tanker was found operational for sprinkling	Borewell is under the Railway's jurisdiction and the

	of water on road of railway siding. Water was extracted through a pumping set from the bore well. No flowmeter was installed at bore well and no permission was obtained for extraction of groundwater.	project proponent has very limited access to the same.
9.	During visit, it is observed that covering of green color cloths of height approx. 20 feet and length approx. 300 meter was placed at one side of station as temporary arrangement for control of dust emission. Covering of green color cloths for other side of station was under progress.	Old green curtains were damaged due to heavy wind, therefore new green curtains are being installed. Photographs has been attached as Annexure -1
10.	No permanent system for dust suppression was observed at railway station. Existing system	Water tank with tractor and fogger machine (under the supervision of the contractor)

	for fugitive emission under control is observed to be inadequate and improper.	has been deployed at the site for dust suppression.
11.	As per specific condition no. 15 of consent issued to M/s. JK Cement Limited under section 21/22 of Air (Prevention and control of Pollution) Act, 1901, "Industry shall focus on the different un-assessed source of air pollution in bagging plant and accordingly make a pucca arrangement to control cement dust generating from loading of trucks/ railway wagons. Copy of consent is issued to both the Cement plant.	The appropriate arrangements are being made in consultation with the contractor.
12.	Ambient air quality stations have been Installed at two (02) locations near station and Satha	Last month Ambient Air Quality Monitoring was carried out by NABL

	<p>village as per availability of power connection. Sample is analyzed by UPPCB test result is as below:</p> <table border="1" data-bbox="472 611 914 1577"> <tr> <td colspan="3" data-bbox="472 611 914 846" style="text-align: center;">Location – 1 Village Satha, Tehsil Koli, District - Aligarh</td> </tr> <tr> <td data-bbox="472 846 634 1331">Parameters</td> <td data-bbox="634 846 760 1331">24 Hours average value (ug/m³)</td> <td data-bbox="760 846 914 1331">Prescribed</td> </tr> <tr> <td data-bbox="472 1331 634 1409">PM10</td> <td data-bbox="634 1331 760 1409">165.99</td> <td data-bbox="760 1331 914 1409">100</td> </tr> <tr> <td data-bbox="472 1409 634 1493">SO₂</td> <td data-bbox="634 1409 760 1493">19.3</td> <td data-bbox="760 1409 914 1493">80</td> </tr> <tr> <td data-bbox="472 1493 634 1577">NO₂</td> <td data-bbox="634 1493 760 1577">26.8</td> <td data-bbox="760 1493 914 1577">80</td> </tr> </table> <p data-bbox="472 1577 914 1902" style="text-align: center;">Location – 2 Near Harduaganj Railway Station, Tehsil Koli, District, Aligarh</p>	Location – 1 Village Satha, Tehsil Koli, District - Aligarh			Parameters	24 Hours average value (ug/m ³)	Prescribed	PM10	165.99	100	SO ₂	19.3	80	NO ₂	26.8	80	<p>Accredited and CPCB approved lab M/s Vibrant Techno lab Pvt. Ltd. Jaipur.</p> <table border="1" data-bbox="943 527 1360 1419"> <tr> <th colspan="3" data-bbox="943 527 1360 688" style="text-align: center;">Harduaganj Railway Station</th> </tr> <tr> <th data-bbox="943 688 1081 1094">Parameter</th> <th data-bbox="1081 688 1219 1094">Results (µg/m³)</th> <th data-bbox="1219 688 1360 1094">NAAQS S 2009 (µg/m³)</th> </tr> <tr> <td data-bbox="943 1094 1081 1171">PM-10</td> <td data-bbox="1081 1094 1219 1171">92</td> <td data-bbox="1219 1094 1360 1171">100</td> </tr> <tr> <td data-bbox="943 1171 1081 1249">PM-2.5</td> <td data-bbox="1081 1171 1219 1249">45</td> <td data-bbox="1219 1171 1360 1249">60</td> </tr> <tr> <td data-bbox="943 1249 1081 1327">So₂</td> <td data-bbox="1081 1249 1219 1327">20</td> <td data-bbox="1219 1249 1360 1327">80</td> </tr> <tr> <td data-bbox="943 1327 1081 1419">No₂</td> <td data-bbox="1081 1327 1219 1419">31</td> <td data-bbox="1219 1327 1360 1419">80</td> </tr> </table>	Harduaganj Railway Station			Parameter	Results (µg/m ³)	NAAQS S 2009 (µg/m ³)	PM-10	92	100	PM-2.5	45	60	So ₂	20	80	No ₂	31	80
Location – 1 Village Satha, Tehsil Koli, District - Aligarh																																			
Parameters	24 Hours average value (ug/m ³)	Prescribed																																	
PM10	165.99	100																																	
SO ₂	19.3	80																																	
NO ₂	26.8	80																																	
Harduaganj Railway Station																																			
Parameter	Results (µg/m ³)	NAAQS S 2009 (µg/m ³)																																	
PM-10	92	100																																	
PM-2.5	45	60																																	
So ₂	20	80																																	
No ₂	31	80																																	

	Parameters	24 Hours average value (ug/m ³)	Prescribed	
13.	It is evident from the above result PM10 is not meeting with prescribed limit of ambient air quality in both the locations.	194.21	100	Reason of high dust level in the area mentioned at point No. 12 which is due to local activities and transportation as well.
Recommendations				
1.	Railway authority in cooperation with concerned cement Industry must develop proper and permanent facility to control and suppress the	26.3	80	Harduaganj Siding is owned by Indian Railways, its operation is under their guidelines. To ensure fulfilment of all respective

	<p>fugitive dust emission generation while loading, unloading and transportation of clinker at line no. 14 of Harduaganj railway station. An action plan should be submitted in this regard to SPCB.</p>	<p>applicable rules and regulations updated time by time by Railways we have given the contract to “M/s P&P Exim Pvt. Ltd.”, along with handling and transfer clinker from Siding to our plant.</p>
2.	<p>The platform area near the line no. 14 should be paved to avoid fugitive emission while movement of trucks.</p>	<p>Harduaganj Siding is owned by Indian Railways. However, water tanker along with tractor and fogger machine (under our contractor’s supervision) have been deputed at the site to assure the dust is suppressed.</p>
3.	<p>Regular water sprinkling should be done on the roads and platform area to suppress road dust.</p>	<p>Water tanker, tractor, and fogger machine (under our contractor’s supervision) have</p>

		been deputed at the site to ensure the dust is suppressed.
4.	Industries/railway authority should carry out monthly ambient air quality monitoring near station area and submit compliance report to UPPCB	As per recommendation, monthly ambient air quality monitoring of Harduaganj Railway Station has been started and the compliance report is being sent to UPPCB. Compliance Report for the month of March and April, 2023 annexed as Annexure No. 2
5.	Industries should comply specific condition No. 15 of consent under section 21/ 22 of Air (Prevention and Control of Pollution) Act, 1981, i.e 'Industry shall focus on the different un-assessed source of air pollution in bagging plant	Industry has implemented all the best available measures to control the dust from loading & unloading which are given as below: <ul style="list-style-type: none"> • All raw materials are being stored in covered yard & silos and belt

	<p>and accordingly make a pucca arrangement to control cement dust generating from loading of trucks/railway wagons.</p>	<p>conveyors have been covered by Galvanised Iron Sheets.</p> <ul style="list-style-type: none">• Bag filter installed at all the transfer points of raw material handling to control fugitive dust emission.• All dust collected in the bag filter is recycled and reused in the plant.• Regular water sprinkling is being done on plant roads.• All roads are paved inside the plant.• Regular sweeping is done using the sweeping machine to
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		clean and collect dust from plant roads.
6.	Assessment of environmental compensation due to loading and unloading of clinker at railway station should be carried out by SPCB and accordingly environmental compensation should be imposed.	<p>Hardauganj siding is owned by Indian Railways, its operations are under their guidelines.</p> <p>Although we are already taking best possible measures (to cover the loss) at the site like tree plantation, installation of green curtains, using water sprinklers and anti-fog machines, etc.</p>
7.	Permission from CGWA for extraction of ground water should be taken as per rule.	The concerned siding is under Railways jurisdiction.

5. To summarize, earlier there were only 1 functional anti-smog guns and now there are 2 functional anti-smog guns. Further, new green

curtains have been installed since the older curtains were worn out due to weather/natural wear and tear. Further, PPE kits have been made available as recommended. Further, are in touch with educational institutions to recommend novel/scientific methods to further reduce air pollution.

6. Additionally, it may be noted that if any new technology is introduced or is available, Respondent No. 6 will use it in the best possible way to control the air pollution caused by the transportation of the clinker.

Place: New Delhi

Date: 20/05/2023

RESPONDENT No. 6 THOROUGH



Keshav Garg

ADVOCATE

D-190, Second Floor,

DEFENCE COLONY,

NEW DELHI-110024

PHONE: +91 7999999240

ANNEXURE-1











1671

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MANGALAM CEMENT LTD.

दिनांक : 06.11.2023



सेवा में,

ANNEXUER-2

श्रीमान क्षेत्रीय अधिकारी

(उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड)

जे -1 ज्ञान सरोवर कॉलोनी , रामघाट रोड , अलीगढ़

विषय :- पत्रांक : 2256 / OA-253 / 2022 दिनांक 14.12.2022 एवं गठित टीम द्वारा किए गए संयुक्त निरीक्षण दिनांक 10.11.2022 की संयुक्त निरीक्षण आख्या में दी गयी S.N.- 4.2 Recommendations no 4 की मासिक अनुपालना मार्च - 2023 . |

सन्दर्भ :- पत्रांक 2256 /OA-253 / 2022 दिनांक 14.11.2022 जो मा० राष्ट्रीय हरित अधिकरण , नई दिल्ली में ऑ.ए. संख्या- 537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन के सम्बन्ध में |

महोदय ,

उपरोक्त विषयक एव पत्र के सन्दर्भ में ,हम आपके समक्ष , आपके द्वारा दिनांक 14.12.2022 को जारी पत्र जो कि मा०राष्ट्रीय हरित अधिकरण , नई दिल्ली में ऑ.ए. संख्या -537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किये गये संयुक्त निरीक्षण दिनांक 10.11.2022 के सन्दर्भ में दिया गया था एव संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 में मासिक Ambient Air Quality Monitoring हरदुआगंज के पास कराके रिपोर्ट को UPPCB में जमा करने हेतु निर्देशित किया गया था है |

श्रीमान जी को अवगत करना है कि संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 के अनुसार मासिक Ambient Air Quality Monitoring रिपोर्ट आपके सदर्भ के लिए सलग्न है |

धन्यवाद

भवदीय

कृते मंगलम सीमेंट लिमिटेड , अलीगढ़

(Handwritten signature)
07/04/23
(अधिकृत हस्ताक्षर)



प्रतिलिपि :-

1. मुख्य पर्यावरण अधिकारी (वृत्त -4) , उ० प्र० प्रदूषण नियंत्रण बोर्ड , लखनऊ
2. स्टेशन अधीक्षक , हरदुआगंज रेलवे स्टेशन अलीगढ़

(Handwritten signature)

Sample Number : VTL/A/Q5

 M/s Mangalam Cement Ltd.
 Plot No.-K-1, Industrial Area, Aligarh UP

Report No. : VTL/A/2303210005/A

Format No : 7.8 F-02

Party Reference No : NIL

Report Date : 25/03/2023

Period of Analysis : 21/03/2023-25/03/2023

Receipt Date : 21/03/2023

Name & Address of the Party :

Sample Description : AMBIENT AIR QUALITY MONITORING

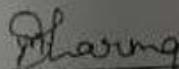
General Information:-

Sampling Location : Harduagang Railway Station
 Sample Collected By : VTL Team
 Sampling Equipment used : RDS/FPS
 Instrument Code : VTL/RDS/FPS/01
 Coordinates : -
 Meteorological condition during monitoring : Clear Sky
 Date of Monitoring : 19/03/2023 To 20/03/2023
 Time of Monitoring : 13:30 to 13:30 Hrs.
 Ambient Temperature (°C) : Min. 15° Max 28°
 Surrounding Activity : Human, Vehicular & Plant Act.
 Scope of Monitoring : Regulatory Requirement
 Method of Sampling : IS :5182
 Sampling Duration : 24 Hrs.
 Parameter Required : As per work order

S.No.	Parameters	Test Method	Results	Units	NAAQS 2009
1	Particulate Matter (as PM10)	IS:5182 (P- 23)-2006, RA. 2017	83.01	µg/m ³	100
2	Particulate Matter (as PM2.5)	IS:5182 (P- 24)-2019	42.80	µg/m ³	60
3	Nitrogen Dioxide (as NO ₂)	IS:5182 (P- 6)-2006, RA.2018	30.84	µg/m ³	80
4	Sulphur Dioxide (as SO ₂)	IS:5182 (P- 2)-2001, RA. 2018	22.04	µg/m ³	80

*BLQ-Below Limit Of Quantification, **LOQ-Limit Of Quantification

End of Report



 Checked by

 RK Yadav
 Lab Incharge
 Authorized Signatory


Page No. 1/1


 EPA 1986 Recognised, ISO:9001 and OHSAS:45001 Certified

Vibrant Techno Lab Pvt. Ltd.

Q SC-40, 3rd Floor, Narayan Vihar S, Ajmer Road, Jaipur Raj. 302020

☎ 0141-2954638

✉ bd@vibranttechnolab.com

दिनांक : 28.04.2023

सेवा में,

श्रीमान क्षेत्रीय अधिकारी

(उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड)

जे -1 ज्ञान सरोवर कॉलोनी, रामघाट रोड, अलीगढ़

विषय :- पत्रांक :2256 / OA-253 / 2022 दिनांक 14.12.2022 एवं गठित टीम द्वारा किए गए संयुक्त निरीक्षण दिनांक 10.11.2022 की संयुक्त निरीक्षण आख्या में दी गयी S.N.- 4.2 Recommendations no 4 की मासिक अनुपालना अप्रैल - 2023 . |

सन्दर्भ :- पत्रांक 2256 /OA-253 / 2022 दिनांक 14.11.2022 जो मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या- 537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन के सम्बन्ध में।

महोदय,

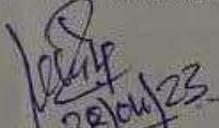
उपरोक्त विषयक एवं पत्र के सन्दर्भ में, हम आपके समक्ष, आपके द्वारा दिनांक 14.12.2022 को जारी पत्र जो कि मा०राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या -537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किये गये संयुक्त निरीक्षण दिनांक 10.11.2022 के सन्दर्भ में दिया गया था एवं संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 में मासिक Ambient Air Quality Monitoring हरदुआगज रेल्वे स्टेशन के पास कराके रिपोर्ट को LPPCB में जमा करने हेतु निर्देशित किया गया था है।

श्रीमान जी को अवगत करना है कि संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 के अनुसार मासिक Ambient Air Quality Monitoring रिपोर्ट आपके संदर्भ के लिए संलग्न है।

धन्यवाद

भवदीय

कृते मंगलम सीमेंट लिमिटेड, अलीगढ़


(अधिकृत हस्ताक्षर)



प्रतिलिपि :-

1. मुख्य पर्यावरण अधिकारी (वृत्त -4), उ० प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ
2. स्टेशन अधीक्षक, हरदुआगज रेल्वे स्टेशन अलीगढ़

Sample Number : VTL/AA/01

M/s Mangalam Cement Ltd.
Plot No.-K-1, Industrial Area, Aligarh UP

Report No. : VTL/A/2304260001/A
Format No : 7.8 F-02
Party Reference No : NIL
Report Date : 27/04/2023
Period of Analysis : 26/04/2023-27/04/2023
Receipt Date : 26/04/2023

Name & Address of the Party :

Sample Description : AMBIENT AIR QUALITY MONITORING

General Information:-

Sampling Location : Harduaganj Railway Station
Sample Collected By : VTL Team
Sampling Equipment used : RDS/FPS
Instrument Code : VTL/RDS/FPS/01
Coordinates : --
Meteorological condition during monitoring : Clear Sky
Date of Monitoring : 24/04/2023 To 25/04/2023
Time of Monitoring : 10:00 to 10:00 Hrs.
Ambient Temperature (°C) : Min. 19° Max 35°
Surrounding Activity : Human, Vehicular & Plant Act.
Scope of Monitoring : Regulatory Requirement
Method of Sampling : IS :5182
Sampling Duration : 24 Hrs.
Parameter Required : As per work order

S.No.	Parameters	Test Method	Results	Units	NAAQS 2009
1	Particulate Matter (as PM10)	IS:5182 (P- 23)-2006, RA. 2017	92.65	µg/m ³	100
2	Particulate Matter (as PM2.5)	IS:5182 (P- 24)-2019	45.53	µg/m ³	60
3	Nitrogen Dioxide (as NO2)	IS:5182 (P- 6)-2006, RA.2016	31.95	µg/m ³	80
4	Sulphur Dioxide (as SO2)	IS:5182 (P- 2)-2001, RA. 2018	20.01	µg/m ³	80

*BLQ-Below Limit Of Quantification, **LOQ-Limit Of Quantification

End of Report



Sudhesh
Checked by



[Signature]
In charge
Authorized Signatory



ANNEXURE R-4

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

O.A. NO. 537 OF 2022

IN THE MATTER OF:

MUKESH KUMAR CHOUHAN

...APPLICANT

VERSUS

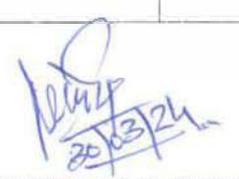
STATE OF UP & ORS.

...RESPONDENTS

INDEX

<u>S. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Additional Response on behalf of Respondent No.6 i.e. M/s Mangalam Cement in the present O.A. No. 537/2022	1-9

Mangalam Cement Ltd.
K-1, CDF Complex, Chhatar
Dist. Aligarh (U.P.) PIN-202123


RESPONDENT No.6

THROUGH


SHLOK CHANDRA
(ADVOCATE)

A-22, Defence Colony,
New Delhi-110024.

E-mail: shlokchandra@chandraLawchambers.com

Phone: +91 9999670588

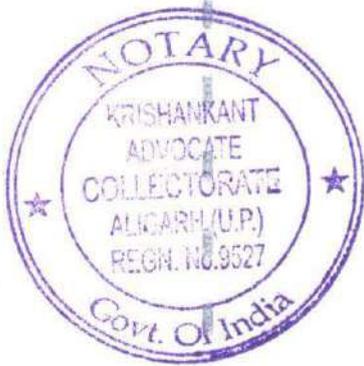
Dated: 30.03.2024

Place: New Delhi



उत्तर प्रदेश UTTAR PRADESH

90AE 758256



PRINTED PROFORMA ATTACHED

Krishankant
 KRISHANKANT
 NOTARY (Advocate)
 Collectorate Aligarh (U.P.)

Krishankant
 01/04/24

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शुभकरी प्रयोग अखिल
५०८

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श्रीरामपाल शर्मा
स्टाम्प विक्रेता ला० न०-०२
लाइसेन्स की अवधि 31-03-2024
कलकट्टेट, अलीगढ़

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 537 OF 2022**

IN THE MATTER OF:

MUKESH KUMAR CHOUHAN

...APPLICANT

VERSUS

STATE OF UP & ORS.

...RESPONDENTS

ADDITIONAL RESPONSE ON BEHALF OF RESPONDENT NO. 6

1. This Additional Response is being filed on behalf of Respondent No.6, Project Proponent i.e., Mangalam Cement Ltd. in furtherance of the Order dated 20.03.24 of the Hon'ble National Green Tribunal in the captioned matter.

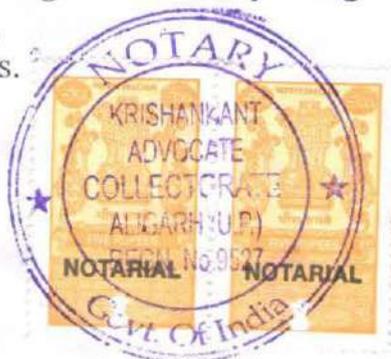
2. In compliance with the order of the Hon'ble Tribunal it is submitted that following

CSR activities have been undertaken by the Answering Respondent:

i) Solar Pump Installation: An amount of Rs. 1,00,000/- were allocated in the installation of solar pump in a Goshala, Aligarh for increasing reliance and use of renewable and sustainable energies.

ii) Solar Light Installation: An amount of Rs. 1,00,000/- were allocated in the installation of solar lights in a nearby Goshala in Chherat, Aligarh enhancing access to sustainable energy sources.

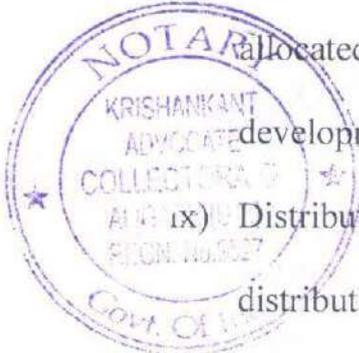
iii) Street Light Installation: An amount of Rs. 50,000/- were allocated in the installation of street lights in a nearby village called Rathgaon, Aligarh promoting access to better services.



~~KRISHANKANT
NOTARY ADVOCATE
Collectorate Aligarh (U.P.)~~
01/04/24

Krishankant
01/04/24

- iv) Fodder distribution: An amount of Rs. 1,50,000/- were allocated for distribution of fodder in a Gowshala in a nearby village called Chherat in Aligarh.
- v) Construction of a Boundary Wall of a Baraat Ghar: An amount of Rs. 1,50,000/- were allocated for the construction of the Boundary wall of a Baraat Ghar so as to enable easy and affordable access to all.
- vi) An amount of Rs. 1,00,000/- were allocated for the construction of a cremation ground in a nearby village Chherat in Aligarh.
- vii) An amount of Rs.2,00,000 were allocated for the beautification of a pond in a nearby village Chherat in Aligarh.
- viii) Distribution of Children Kit in an Anganwadi: An amount of Rs. 1,50,000/- were allocated in the distribution of children kits in an Anganwadi contributing to overall developments of the young kids in the nearby village.
- ix) Distribution of Indian Flag: An amount of Rs. 40,000/- were allocated for the distribution of Indian Flag.
- x) An amount of Rs. 1,00,000/- was allocated to Aligarh Cricket Association of Deaf for fostering sports and recreational activities among the specially abled.
- xi) The Respondent Company has also spent substantial amount of money in distribution of essential goods to the poor and the needy. Around 100 blankets, sarees and umbrellas were distributed in a nearby Chherat Village.

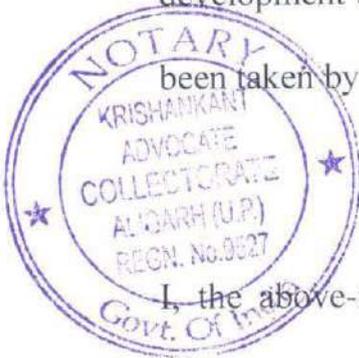


Krishankant Adv.
 KRISHANKANT
 NOTARY PUBLIC
 COLLECTORATE ALIGARH U.P.
 01/04/24

Prady
 01/04/24

3. That the Respondent No.6 company has taken all best available measures to mitigate air pollution and has planted Sheesham, Jamun, Arjun, Knaji trees in order to develop a green belt along the railway siding.

4. It is also respectfully submitted that a balance has to be met between economic development and environmental pollution. In the instant case, adequate measures have been taken by Project Proponent to mitigate air pollution in a proactive manner.



VERIFICATION

I, the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct and best to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at Aligarh on this 30 day of March 2024

Mangalam Cement Ltd.
K-1, CDF Complex, Chhert
Dist. Aligarh (U.P.) PIN-202...22

DEPONENT

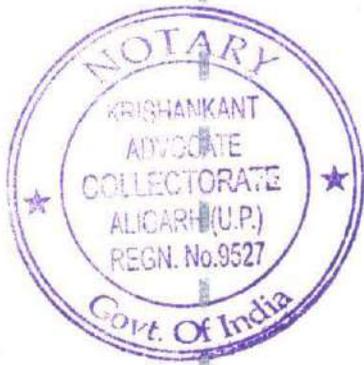
affirmed before me
By Mukesh Agarwal
identified By Self
Who have been heard the contents
here of Affidavit and the same to be
correct

KRISHANKANT
NOTARY (Advocate)
Collectorate Aligarh



उत्तर प्रदेश UTTAR PRADESH

90AE 758257



PRINTED PROFORMA ATTACHED

[Handwritten Signature]
 05/04/24

[Handwritten Signature]
 KRISHANKANT
 NOTARY (Advocate)
 Collectorate, Aligarh (U.P.)

100+ शुभकामनाएं 118 1683

शुभकामनाएं

[Handwritten signature]

सुरमायाक अर्ना
स्टाम्प विनिमय ला0 नं0-02
लाइसेन्स की अंशधि 31-03-2024
कसैक्ट्रेट, अलीगड

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

O.A. NO. 537 OF 2022

IN THE MATTER OF:

MUKESH KUMAR CHOUHAN

...APPLICANT

VERSUS

STATE OF UP & ORS.

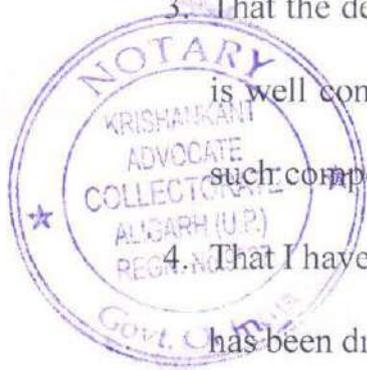
...RESPONDENTS

AFFIDAVIT

I, **Mukesh Agarwal S/o Sh. Radhey Shyam** Aged about **56** years, presently working as **Plant In-Charge M/s. Mangalam Cement Limited Aligarh**, do hereby solemnly affirm and state on oath as follows:

3. That the deponent is the authorized signatory of the Respondent Company No.6 and is well conversant with the facts, circumstances and proceedings of the case and as such competent and duly authorized to swear and affirm this affidavit.

4. That I have gone through the contents of the accompanying additional response which has been drafted by my counsel and state that the same are true and correct to the best of my knowledge and as derived from the records maintained by the Respondent Company in its ordinary course of the business. The legal averments are based on the legal advice received and verily believed to be true.



[Handwritten Signature]
KRISHNA KANT
NOTARY PUBLIC
Collectorate, Aligarh (U.P.)
01/03/24

[Handwritten Signature]
30/03/24
DEPONENT

Mangalam Cement Ltd.
K-1, CDF Complex, Chherat
Dist. Aligarh (U.P.) PIN-202122

VERIFICATION

I, the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct and best to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at Aligarh on this 30 day of March 2024.



affirmed before me
by Mukesh Agarwal
identified By Self
Who have been heard the contents
here of and stated the same to be
correct

K. Ritesh Kumar
NOTARY ADVOCATE
Collectorate Aligarh

Mangalam
30/3/24

DEPONENT
Mangalam Cement Ltd.
K-1, CDF Complex, Chherat
Dist. Aligarh (U.P.) PIN-202122

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...APPLICANT

VERSUS

State of UP & Ors

...RESPONDENTS

INDEX

<u>S.No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Additional Reply on behalf of Respondent No.6 i.e. M/s Mangalam Cements to the present O.A. No. 537/2022, along with supporting affidavit	1-9
2.	<u>ANNEXURE R-1</u> Copy of order dated 13.05.2025.	10-15
3.	<u>ANNEXURE R-2</u> Reply dated 17.02.2023	16-90

4.	<u>ANNEXURE R-3</u> ATR dated 20.05.2023	91-114
5.	<u>ANNEXURE R-4</u> Additional Response dated 30.03.2024	115-120
6.	<u>ANNEXURE R-5</u> Photographs of anti-smog guns deployed.	121
7.	<u>ANNEXURE R-6</u> Pictures of the plantation around railway platform area	122-125
8.	<u>ANNEXURE R-7</u> Pictures and video link of trucks with tarpaulin and wetting of road outside the railway siding	126-132
9.	Vakalatnama	133-134
10.	Proof of service	135

Through

Counsels for Respondent No.6



Shlok Chandra, Advocate

A-22, Ground Floor, Defence Colony,

New Delhi – 110024.

Cell: +91 9999670588

Email: shlokchandra@chandralawchambers.com

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH, NEW DELHI****O.A. NO. 537 OF 2022****IN THE MATTER OF:**

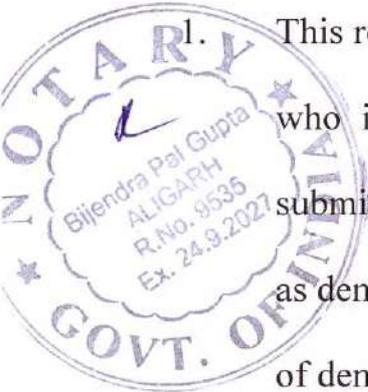
Mukesh Kumar Chauhan

...APPLICANT

VERSUS

State of UP & Ors,

...RESPONDENTS

REPLY ON BEHALF OF RESPONDENT NO. 6 IN O.A. NO. 537 OF 2022.

1. This reply is being filed by the Project Proponent i.e. Mangalam Cement Ltd who is Respondent No. 6 in the present proceedings. It is respectfully submitted that the facts unless specifically admitted herein should be treated as denied and no averment shall be deemed to be admitted merely due to lack of denial. The petitioner be put to strict proof of all averments made.

2. Previously in the matter, in compliance of the said directions Respondent No. 6 had filed its reply dated 17.02.2023. Subsequently, Respondent NO. 6 has filed an action taken report dated 20.05.2023. Thereafter, the Respondent has also filed additional response dated 30.03.2024. Copy of order dated 13.05.2025 wherein the Respondent No. 6 has been directed to file additional



reply is attached herewith as **Annexure R-1**. True Copies of previous filed replies, ATR and Additional Response are as follows:

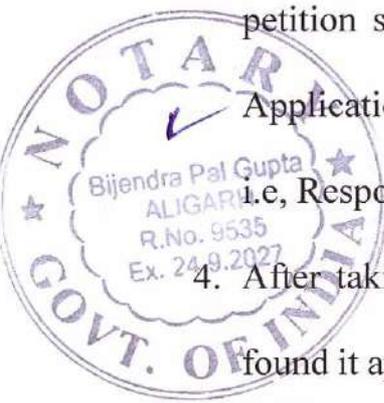
- (a) Reply dated 17.02.2023 attached herewith as **Annexure R-2**.
- (b) ATR dated 20.05.2023 attached herewith as **Annexure R-3**.
- (c) Additional Response dated 30.03.2024 attached herewith as **Annexure R-4**.

Facts in Brief:

3. That the facts in brief leading to the present matter originated from the letter petition sent by the Petitioner, which was treated and registered as Original Application, alleging that the transportation of clinker by the Project Proponent i.e, Respondent No. 6 was causing Air Pollution ..

4. After taking suo-moto cognizance of the present letter petition, the Tribunal found it appropriate to seek response from the 1) State of Uttar Pradesh, 2) State PCB, 3) District Authority, Aligarh; 4) Railways 5) M/s J.K Cement 6) M/s Mangalam Cement and 7) M/s Vision Next Road Logistics Pvt. Ltd. 8) P&P Exim Pvt. Ltd.

5. It may however, be noted that subsequently, the Petitioner has withdrawn his complaint. Notwithstanding the same, Respondent No. 6 is responding to the averments made by the Petitioner on merits without prejudice to the withdrawal . It may also be noted that the present case has a troubled history and the



Respondent No. 6 had brought it to the attention of the Hon'ble Tribunal that the complainants were pressurizing the project proponents for jobs and the locals in the area are using the ongoing case as a tool to extract jobs from the project proponents. This fact has been stated on affidavit and has been brought to the attention of the Hon'ble Tribunal.

6. It is respectfully prayed that the contents of the previous replies and affidavits filed by Respondent No.6 be read as part of this additional reply since the steps taken by Mangalam Cements have been stated out multiple times therein as well. The Respondent No.6 does not wish to repeat the steps already being taken in detail however, for the sake of completeness there may be some inadvertent repetition from past replies and status reports.

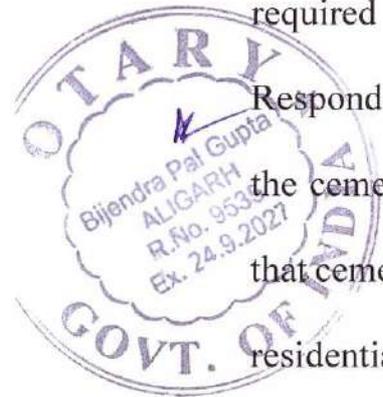
Submissions:

7. The Hon'ble Tribunal has directed in para 13 of it's order dated 13.05.2025 as under, "*Additional responses be filed by respondents no. 5, 6, 7 and 8 mentioning in detail the quantity transported, the number of vehicles used, remedial measures adopted for prevention and control/abatement of environmental pollution.*"
8. The Hon'ble Tribunal will appreciate that Respondent No.6 is in the business of cement manufacturing and the per month production depends on various market



conditions and manufacturing per month is linked to demand in the last few months, anticipated demand in the next few months etc. However, on average it can be stated that approximately 27,790 MT of clinker is transported in June'2025. To transport the clinker from the railway siding to Respondent No. 6's cement plant situated at Aligarh which is close from the railway siding on average 1000 MT is transported daily. The Respondent No. 6 deploys about 10 trucks with a carrying capacity of 25 MT, and therefore, daily each truck is required to do 4-5 trips per day. The Hon'ble Tribunal will appreciate the Respondent No.6 operates a large cement manufacturing plant which caters to the cement demand for a large part of northern India. It need not be reiterated that cement is an essential commodity required for construction of infrastructure, residential units, factories, commercial buildings etc.

9. As already stated in previous submissions, various steps such as anti-smog guns, wetting of area near railway siding to prevent fugitive dust have been done. Some recent photographs taken are attached herewith as **Annexure R-5**.
10. Further, answering respondent had planted trees as stated earlier at the railway siding to control pollution. This plantation was done both on the railway platform side as well as around the railway siding area. Pictures of the plantation around the railway platform area are attached as **Annexure R-6**.



11. During the transportation of clinker from the railway siding to the cement plant of Respondent No. 6, the anti-smog guns are deployed for keeping the pollution levels down, further the trucks are covered with tarpaulin during transportation to prevent dust dispersion. Answering respondent also wets the roadside area between railway siding and its plant to suppress the dust emission and to prevent pollution even during transportation. Pictures of trucks with tarpaulin and wetting of road outside the railway siding are annexed as **Annexure R-7**. As proof that necessary measures has been taken by the Respondent

<https://youtube.com/shorts/FPXQWVp8vnY?si=0Ya8Wtfsov-XrceR> is the link

of a video clip showing the trucks of Respondent No. 6 are covered with tarpaulin while transporting clinker.

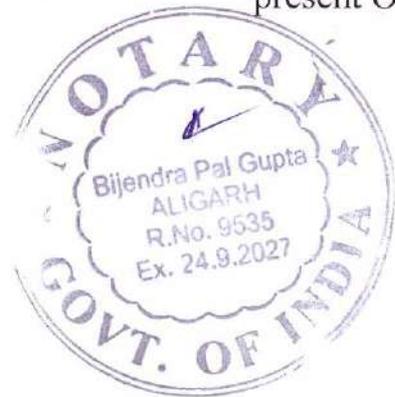
12. As submitted, in previous responses, numerous CSR activities have been undertaken by the Respondent NO. 6 and the same are not being repeated herein for the sake of brevity.

13. Railways as the owner of the siding as a permanent measure to control pollution has created permanent structure. The latest update on the construction process would be covered in the affidavit filed by the Indian Railways.

14. Adequate measures have been taken by the project proponent i.e. M/s Mangalam Cement while loading and unloading clinker as described above in the form of wetting the ground, using anti-smog guns to prevent fugitive dust emission.



15. It is also respectfully submitted that a balance has to be met between economic development and environmental pollution. In the instant case, adequate measures have been taken by Project Proponent to mitigate air pollution in a proactive manner. The answering respondent will continue to use these anti-smog guns as well wetting the ground through its contractor as is being presently being done. As permanent measure to curb pollution are already been taken by railways, the requirement of answering respondent to do anything more in addition to steps already being taken by it is in the humble opinion of answering respondent not required. As such the presence of answering respondent in the present OA may be dispensed with.



PRAYER

In view of the fact and circumstances of the present case the Respondent No. 6 respectfully prays that this Hon'ble Tribunal may be pleased to:

- (a) Dispense with the presence of answering respondent No.6; and/or
- (b) Close the OA pending before the Hon'ble Tribunal; and/or
- (c) Pass such other orders as this Hon'ble Tribunal may deem fit and appropriate.


B.P. GUPTA
Notary, Aligarh



130



BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

[Under Sec. 16(g) of the NGT Act, 2010]

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...APPLICANT

VERSUS

State of UP

...RESPONDENTS

AFFIDAVIT

I, **Sanjiv Kumar Paliwal S/o Vinod Kumar Paliwal** Aged about **57** years, presently working as **Plant In-Charge M/s. Mangalam Cement Limited, Aligarh** do hereby solemnly affirm and state on oath as follows:



1. That the deponent is the authorized signatory of the Respondent Company No.6 and is well conversant with the facts, circumstances and proceedings of the case and as such competent and duly authorized to swear and affirm this affidavit.
2. That I have gone through the contents of the accompanying petition/reply which has been drafted by my counsel and state that the same are true and correct to the best of my knowledge and as derived from the records maintained by the Respondent Company in its ordinary course of the business. The legal averments are based on the legal advice received and verily believed to be true.
3. That the annexures annexed to the present petition/reply are true copies of their respective originals.



Deponent



VERIFICATION

I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct and best to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at **Aligarh** on this **22** day of **July** 2025.



Deponent



Identified
by Brajesh Ad
21/07/2025
Brajesh Saraswat
Advocate
Regd. No. 3641/08, C.O.P. No. 104279
CIVIL COURT/Collectorate, ALIGARH
Mobile No.: 7983043791

S. No. 1 Date 22-7-25 Time 1 pm
Solemnly Affirmed before me
affidavit By Sanjay Kumar Paliwal
identified By Brajesh Saraswat Ad
and who have been heard the
contents here & have Admitted
are same to be Correct.

JK Ad
22-7-25
OATH COMMISSIONER
COLLECTORATE, ALIGARH

133
ANNEXURE R-1

Item Nos. 06 to 08

Court No. 2

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

Original Application No. 537/2022

Mukesh Kumar Chouhan

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondents

WITH

Original Application No. 426/2023

Surender Singh Chouhan

Applicant

Versus

State of U.P.& Ors.

Respondents

WITH

Original Application No. 457/2023

S.S Singh

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondents

Date of hearing: 13.05.2025

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

Applicants: None for the Applicant.

Respondents: Ms. Priyanka Swami, Advocate for respondent no. 1.
Mr. Pradeep Misra Advocate for respondent no. 2.
Mr. Gi. Gi. C. George for respondents no. 4.

Mr. Shlok Chandra and Mr. Sankalp Sharma, Advocates for respondent no. 5 and 6 (through VC).
Mr. Chirag Rathi, Advocate for respondent no. 7 (through VC).
Ms. Vishakha Panchal, Proxy Counsel for Mr. Ashish, Advocate for respondent no. 8.
Mr. Saurabh Balwani, Advocate for respondent no. 10 (through VC).

ORDER

1. The grievance in the present applications registered on letter petitions are that J.K. Cement, M/s Mangalam Cement and other companies are getting clinker, required by them for manufacture of cement, transported to Harduaganj Railway station near village Satha District Aligarh. During loading/unloading, clinker evaporates causing damage to the environment, grave harm to wildlife and posing serious health hazards to local residents.
2. Vide order dated 05.09.2022, this Tribunal constituted a Joint Committee comprising of representative of CPCB, State PCB, and District Magistrate, Aligarh with direction to verify the factual position and submit its report and in compliance thereof, report of the Joint Committee was filed vide email dated 01.12.2022.
3. In the course of hearing State of Uttar Pradesh, UPPCB, District Magistrate, Aligarh, North Central Railway, M/s. J.K. Cement, M/s. Mangalam Cement, M/s. Vision Next Road Logistics Pvt. Ltd. and M/s. P & P Exim Pvt. Ltd. were impleaded as respondents.
4. Reports/Replies were filed by the respondents. Arguments were heard and order was reserved on 03.04.2024 but on 25.09.2024 the cases were relisted for further hearing as on going through the material placed on record presence of the Railway Board and CPCB was considered to be essential for just and proper adjudication of the environmental questions involved and additional reply/report regarding status of work and also adequacy thereof for control/abatement of environmental pollution was

also considered to be necessary. Railway Board and CPCB were impleaded as respondent no. 9 and 10. Reply dated 06.11.2024 was filed by the CPCB but no response has been filed by the Railway Board. Additional report was filed by DRM, North Central Railways vide email dated 17.12.2024. However, learned Counsel for respondents no. 4 and 9 sought time for filing additional report and guidelines issued by the railway board. Additional report dated 12.03.2025 was filed by DRM, North Central Railway vide email dated 12.03.2025 but copies of guidelines issued by the Railway Board were not filed. In its additional report filed vide email dated 12.03.2025 respondent no. 4 has mentioned the work of approach road and high mast tower to be under progress mentioning tentative date for completion of sanctioned work to be April 2025. Respondent no. 4 has admitted that approach road to Harduaganj road is still unpaved. In its reply respondent no. 4 has also mentioned that about 600 plants have been planted at Harduaganj road and more trees are to be planted. Respondents no. 4 and 9 are directed to file additional response and copy of guidelines issued by railway board at least one week before the next date of hearing fixed.

5. Vide order dated 20.03.2024 respondents no. 5 to 8 were directed to file their responses with respect to plantation, CSR activities in the area of the railway good-shed and other remedial measures. Additional responses were filed by respondents no. 5 and 6 on 30.03.2024 but additional responses were not filed by respondents no. 7 and 8. None appeared for respondents no. 5 and 8 on 19.03.2025 on which date costs of Rs. 25,000/- each was imposed on them while giving them opportunity to file additional response. Costs has been deposited by respondent no. 5 and response dated 11.04.2025 has been filed by respondent no. 5 vide email dated 01.05.2025. However, costs have not been deposited by respondent no. 8.

6. Respondent no. 8 has filed application under Section 22 of the

National Green Tribunal Practices and Procedure Rules, 2011 dated 17.04.2025 for review of order dated 19.03.2025.

7. The application has been filed on the grounds that respondent no. 8- M/S P&P EXIM Pvt. Ltd. had filed its reply on 25.08.2023 and after hearing arguments, the matter was reserved for judgment by this Tribunal vide order dated 03.04.2024. Respondent no. 8- M/S P&P EXIM Pvt. Ltd. received vide email dated 08.04.2025 copy of order dated 19.03.2025 imposing costs. Respondent no. 8- M/S P&P EXIM Pvt. Ltd. did not receive any notice or copy of original applications of the other two matters namely *O.A No. 426 of 2023, Surrender Singh Chouhan vs. State of U.P.& Ors.* and *O.A No. 457/2023, S.S Singh vs. State of U.P.& Ors.* Respondent no. 8 diligently pursued the matter and stopped attending the hearing after the matter was reserved for judgment vide order dated 03.04.2024 and Respondent No. 8 was not aware of the proceedings pending in above mentioned two other matters. Respondent No. 8 has accordingly prayed for waiver of the costs.

8. Respondent no. 8 has not appeared before this Tribunal today through duly authorized counsel and only Ms. Vishakha Panchal, Proxy Counsel for Mr. Ashish, Advocate for respondent no. 8 has appeared as proxy counsel for counsel engaged by respondent no. 8.

9. Even though strictly speaking, proxy counsel is not required to be heard unless specifically authorized in this regard yet we have heard the proxy counsel and we have also gone through the application for review filed by respondent no. 8.

10. In the present case arguments were heard and the judgment was reserved vide order dated 02.11.2023 but thereafter, the matter was relisted for hearing vide order dated 06.02.2024. Thereafter, the arguments were heard and the Judgment was reserved on 03.04.2024 but the matter was relisted for further hearing on 25.09.2024. Thereafter the matter came

up for hearing on 07.11.2024, 19.12.2024 and 19.03.2025. Respondent no. 8 was required to appear after relisting of the matter but respondent no. 8 did not appear. Presence of respondent no. 8 was necessary for just and proper adjudication of the questions involved and its non-appearance had the effect of causing unnecessary adjournment and delaying appropriate resolution of the environmental issues involved in the case on which costs were imposed on respondent no. 8 for the reasons mentioned in the order. The order imposing costs does not suffer from any error of law. No new material has been brought to the notice of this Tribunal requiring a modification of above said order. There is no other sufficient ground for review. Consequently, no ground for review of order dated 19.03.2025 and waiver of costs is made out and the application for review is dismissed.

11. Respondent no. 8 is directed to deposit the costs within one month, failing which, NGT Bar Association, Principal Bench, New Delhi will be entitled to recover the same by filing an execution application under Section 25 of the National Green Tribunal Act, 2010.

12. In the course of hearing an official of respondent no. 4 join through video mobile phone call and had shown the railway goods-yard. In the video partial sheet covering could be seen but the number of plants alleged to have been planted were not visible. Respondent no. 4 is directed to file video clips in pen drive covering the railway goods-yard and also loading/unloading of clinker and its transportation in support of its claim regarding compliance with the environmental norms. The same be filed at least one week before the next date of hearing fixed.

13. Additional responses be filed by respondents no. 5, 6, 7 and 8 mentioning in detail the quantity transported, the number of vehicles used, remedial measures adopted for prevention and control/abatement of

environmental pollution.

14. List on 25.07.2025 for final hearing.

15. A copy of this order be sent to Secretary, National Green Tribunal Bar Association for information.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 13th, 2025
Original Application No. 537/2022
& connected matters
AB

ANNEXURE R-2

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 537 OF 2022**

IN THE MATTER OF:

Mukesh Kumar Chauhan

...APPLICANT

VERSUS

State of UP & Ors.

...RESPONDENTS

INDEX

<u>S.No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Reply on behalf of Respondent No.6 i.e. M/s Mangalam Cement to the present O.A. No. 537/2022, along with supporting affidavit.	1-12
2.	<u>ANNEXURE R-1 (Colly)</u> Copy of order dated 12.01.2023 and notice dated 24.01.2023.	13-15
3.	<u>ANNEXURE R-2</u> The true and correct copy of judgments of this 'Hon'ble Tribunal in "Aswini Kumar Dhal v. Odisha Pollution Control Board, O.A. No. 41/2015/EZ"	16-61
4.	<u>ANNEXURE R-3 (Colly)</u> Photographs showing steps taken by Project Proponent to mitigate the environmental impact of loading-unloading of clinker at railway siding. [Due to the large size of	-----

	Photographs the same would be demonstrated during the physical hearings.]	
5.	<u>ANNEXURE R-4</u> Reply provided by M/s Mangalam Cement to UPPCB dated 01.10.2022	62-63
6.	<u>ANNEXURE R-5</u> Para wise reply provided by M/s Mangalam Cement to UPPCB dated 30.12.2022.	64-67
7.	<u>ANNEXURE R-6 (Colly)</u> The True and translated copy of the UPPCB report dated 10/11/2022 (Original and English translation)	68-71
8.	Vakalatnama	72-73
9.	Proof of service	

Through
Counsels for Respondent No.6


Keshav Garg, Advocate
D-190, Second Floor,
Defence Colony,
New Delhi – 110024.
Mobile: +91 7999999240

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH, NEW DELHI****O.A. NO. 537 OF 2022****IN THE MATTER OF:**

Mukesh Kumar Chauhan

...**APPLICANT****VERSUS**

State of UP & Ors.

...**RESPONDENTS****REPLY ON BEHALF OF RESPONDENT NO. 6 IN O.A. NO. 537 OF 2022.**

1. This reply is being filed by the Project Proponent i.e. M/s Mangalam Cement who is Respondent No. 6 in the present proceedings. It is respectfully submitted that the facts not specifically admitted should be considered to be denied and no averment should be considered to be admitted on the ground of non traverse. The petitioner be put to strict proof of all averments made. On 12.01.2023 the Respondent No. 6 was directed to file it's reply within one month and in compliance of the said directions the present reply is being filed. Copy of order dated 12.01.2023 is attached herewith marked as **Annexure R-1**. It may be noted that the notice was formally issued by NGT to the Respondent No. 6 only on 24.01.2023.

Facts in Brief:

2. It would be appropriate to first set out the brief facts of the case. The present Petitioner sent a letter petition which was treated and registered as Original

Application, complaining about air pollution caused by transport of clinker interalia by the Project Proponent.

3. After taking suo-moto cognizance of the present letter petition, the Tribunal found it appropriate to seek response from the 1) State of Uttar Pradesh, 2) State PCB, 3) District Authority, Aligarh; 4) Railways 5) M/s J.K Cement and 6) M/s Mangalam Cement & 7) M/s Vision Next Road Logistics Pvt. Ltd.
4. It may however, be noted that subsequently, the Petitioner has withdrawn his compliant. Notwithstanding the same the Petitioner is responding to the contents of the Complaint on merits.

Preliminary Submissions:

5. The main issue is relating to the air pollution caused at the railway siding at the time of loading/unloading of clinker and during transportation till 400-500 metres of the spot of loading/unloading site, the Project Proponent has already taken all the adequate measures at site. It is submitted that the Indian Railways is the operator of the railway siding and concretization of the same would fall within the prerogative of the Indian Railways.
6. Adequate measures have been taken by the project proponent M/s Mangalam Cement and they have implemented all the best available measures to control the dust emission during the process of loading and unloading. All the steps taken have been elaborated in detail in the present reply.

7. Uttar Pradesh Pollution Control Board i.e. UPPCB through the joint committee formed by the Ld. Tribunal has submitted its report dated 10.11.2022, which indicates that the adequate steps are being taken by the project proponents to mitigate the effects of air pollution caused by the loading/unloading of the clinker.
8. The Project Proponent is also in talks with Indian Railways in order to have a direct and dedicated transport line/corridor between its unit at Aligarh, so that in the foreseeable future the transportation by the trucks could be reduced.
9. Along with this reply, the answering respondent is also attaching relevant photographs to indicate the efforts made to mitigate the effects of transport by clinker in a proactive manner.

Main Reply:

Responsibilities of Indian Railways:

10. It is submitted that the Indian Railways is the sole owner of the railway siding and concretization and proper paving of the same falls within the prerogative of the Indian Railways. For issues relating to the air pollution caused at the railway siding at the time of loading/unloading of clinker and during transportation till 400-500 metres of the spot of loading/unloading site, the Project Proponent has already taken all the adequate measures. Since the Railway sidings are railway's property, the project proponents cannot make structural improvements at the site. Such structural changes

are not feasible as well as the project proponents cannot be expected for making such improvements.

11. It is submitted that Indian Railway have been continuously flouting all the Environmental Laws, Guidelines and suggestions put forward by this Hon'ble Tribunal as well as various other forums like State Pollution control boards. In this regard, the project proponent herein is citing herewith one such judgement of this Hon'ble Tribunal in this regard decided in "*Aswini Kumar Dhal v. Odisha Pollution Control Board, O.A. No. 41/2015/EZ*" wherein, THE Hon'ble Tribunal have acknowledged the lapses of indian railway and even mentioned that the indian railway is undeniably guilty of violation of the mandatory statutory provisions having breached the Environmental Laws, particularly, the Water Act, 1974 and the Air Act, 1981 by operating their units illegally from 2011. For the convenience, these judicial precedents may be acknowledged by the Hon'ble Tribunal. The relevant para of the Judgement which noted the lapses on the part of indian railway is as under:
"38. Having discussed on the facts and circumstances in detail, we are of the considered view that -

(a) East Coast Railway is undeniably guilty of violation of the mandatory statutory provisions having breached the Environmental Laws, particularly, the Water Act, 1974 and the Air Act, 1981 by operating their units illegally from 2011, after the revised guidelines had come into force, without consent to operate from the State Pollution Control Board and, for contributing to air and water pollution thereby degrading the environment."

The true and correct copy of the precedent judgement decided in "Aswini Kumar Dhal v. Odisha Pollution Control Board, O.A. No. 41/2015/EZ" is annexed herein as **Annexure R- 2**

12. UPPCB's in its letter dated 14.12.2022 in para 4 stated that, "*During visit, the platform near line no. 14 was found unpaved, which is also the cause of fugitive emission during transportation.*" Thereafter, UPPCB has recommended that the platform should be paved in a manner to avoid fugitive emission while loading/unloading of the clinker.

Measures taken by M/s Mangalam Cement and current status:

1. The Adequate measures have been taken by the project proponent i.e. M/s Mangalam Cement and implemented all the best available measures to mitigate air pollution at the time of the loading and unloading of clinker at the railway siding and during the process of transportation of clinker by truck. The loading and unloading of clinker as well as its transportation and shifting to our Plant is performed by M/s. P & P Exim Pvt. Ltd. Sootmill Choraha Aligarh- 202001. However, our clinker handling agency has deployed water tanker to maintain wetness of the drive area so as to control the dust generation, along with that our clinker handling agency has taken all the precautions and implemented the best measures to control the fugitive dust emissions. The photographs of the nearby area and even of 500 mtr radius of handling area clearly indicate the effectiveness of the control measures implemented:-

- Water sprinkling at Railway siding.
 - Mist/ anti-smoke guns are provided and operated as required to suppress dust particles.
 - Greenbelt (800 trees) has been developed all along the railway siding.
 - Green cloth curtain has been provided on both sides of sidings to trap the flying particles generated during the process.
 - Photographs showing the same attached marked as **Annexure R-3 (Colly)** along with this reply.
2. On 01.10.2022 the Project Proponent i.e. M/s Mangalam Cement, had submitted its reply to the UPPCB. The true translated copy of the reply provided by M/s Mangalam Cement to UPPCB is attached herewith marked as **Annexure R-4**.
3. On 30.12.2022, the Project Proponent had submitted para wise reply to UPPCB about their observations. The true translated copy of the reply provided by M/s Mangalam Cement to UPPCB is attached herewith marked as **Annexure R-5**.
4. In reply to UPPCB, it was submitted by M/s Mangalam Cement that the steps taken includes:
- i. Air borne dust is being controlled by water sprinkling which is done regularly.
 - ii. Floors are regularly swept.

- iii. While loading and unloading of clinkers the M/s. P & P Exim Pvt. Ltd. Sootmill Choraha Aligarh- 202001 uses green curtains as well as Canvass to cover the vehicle containers in order to trap the flying dust and particle's emission generated during the process.
- iv. That the Project Proponent M/s Mangalam Cement planted 101 plant saplings at the railway sidings in order to maintain the commitment of environmental protection by neutralizing the carbon emission during loading/unloading of clinkers as these plants act as carbon sinks at the site near railway sidings.

5. The latest report submitted by UP PCB states as follows:

1. *"At the time of inspection, the railway station was situated on the side line no. 0-14 of Harduaganj railway siding. Water sprinkling work was found to be done through 02 tankers in the loading/ unloading area.*
2. *At the time of inspection, two nos. of portable anti smoggun were found located at the loading/ unloading site and water sprinkling was found to be done by both of the anti smoggun. The representative present at the time of inspection was informed by Mr. Vision Next Road Line that Anti Smogon Machine has been purchased by the firm. Photocopy of tax invoice is attached.*
3. *At the time of inspection M/s Vision Next Road Line No-132, S.S. Off GT Road, Industrial Area, Ghaziabad by Harduaganj Railway Station*



and Monitoring of ambient air quality of Village- Satha was done in both loading and unloading conditions.

- 4. At the time of inspection, it is natural for dust/ dust to fly due to the railway siding of Harduaganj railway station and the road being unpaved for vehicular traffic. The representative present at the time of inspection was informed by M/s Vision Next Road Line that work has to be done by the Railways to make the said road and railway siding .*
- 5. Generated by the movement of vehicles and loading / unloading on Harduaganj railway siding at the time of inspection to control the fugitive dust, the eastern and western sides of the railway station were covered from the boundary with a long temporary green net about 20 feet high 600 meters on both sides (Photograph attached).*
- 6. Due to non- availability of goods train/ rack at the time of inspection, the work of unloading could not be done. But the loading work was going on. At the time of inspection, suitable PPE was not found to be used by the worker during loading.*
- 7. At the time of inspection, pump set was found installed on the borewell located on the railway siding. From the said borewell no record has been presented regarding whether the permission for water exploitation has been obtained from the District Level Ground Water Authority, Aligarh or not.*

8. *It was informed by M/ s Vision Next Road Line, present at the time of inspection, that the said borewell located at Harduaganj railway siding belongs to the Railways. Railway must get the permission for water harvesting. The report is sent with respect for your perusal and further necessary action."*

The True and translated copy of the UPPCB report is annexed herewith marked as **Annexure R – 6 (Colly)**

6. The Project Proponent have also conveyed their suggestions with Indian Railway in order to have a direct and dedicated transport line/corridor between its loading/unloading site to its destination unit, so that in the foreseeable future the transportation by the trucks could be reduced. A suitable direction may also be given to Indian Railways to fast track that proposal.
7. It is also respectfully submitted that a balance has to be met between economic development and environmental pollution. In the instant case, adequate measures have been taken by Project Proponent to mitigate air pollution in a proactive manner. The same is borne out from UPPCB's report as well as colour photographs attached.

PRAYER

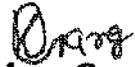
In view of the facts and circumstances of the present case the Respondent No. 5 respectfully prays that this Hon'ble Tribunal may be pleased to:

- (a) Dispose of the present OA with suitable directions to Indian Railways to adhere to its own guidelines and for pavement of railway sidings Harduaganj;
- (b) Pass such other orders as this Hon'ble Tribunal may deem fit and appropriate.

Place: New Delhi

Date: 14/02/2023

**Through
Counsels for Respondent No.6**


**Keshav Garg, Advocate
D-190, Second Floor,
Defence Colony,
New Delhi - 110024.
Mobile: +91 7999999240**



BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

[Under Sec. 16(g) of the NGT Act, 2010]

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...APPLICANT

VERSUS

State of UP

...RESPONDENTS

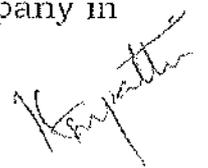
AFFIDAVIT

I, Kailash Nath Impaltri S/o Shri T. P. Impaltri Aged about 50 years, presently working as AVP - Supply chain Mangalam Cement Ltd. do hereby solemnly affirm and state on oath as follows:

1. That the deponent is the authorized signatory of the Respondent Company No.6 and is well conversant with the facts, circumstances and proceedings of the case and as such competent and duly authorized to swear and affirm this affidavit.
2. That I have gone through the contents of the accompanying petition/reply which has been drafted by my counsel and state that the same are true and correct to the best of my knowledge and as derived from the records maintained by the Respondent Company in


 SUJATA CHAKSHI DAS
 Notary Genl. of W.B.,
 Regd. No. 214/22
 City South-East, Kolkata

16 FEB 2023



12

its ordinary course of the business. The legal averments are based on the legal advice received and verily believed to be true.

3. That the annexures annexed to the present petition/reply are true copies of their respective originals.

Krupath
Deponent



VERIFICATION

I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct and best to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at Kolkata on this 16 day of Feb 2023.

Identified by me

Soma Dutta
Soma Dutta
Advocate
C.M.M. Court, Kolkata-1
Regn No.- F-1496/21

Krupath
Deponent



SUJATA GHOSH DAS
Notary Govt. of W.B.
Regn. No- 014/22
City Sessions Court, Kolkata

SOLEMNLY AFFIRMED AND DECLARED BEFORE ME ON IDENTIFICATION

S. Ghosh Das
NOTARY

16 FEB 2023

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

(Through Physical Hearing with Hybrid VC Option)
Original Application No. 537/2022

Mukesh Kumar Chouhan

...Applicant

Versus

State of U.P.

...Respondent

Date of hearing: 12.01.2023

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

Applicant: None.

Respondents: Mr. Pradeep Misra, Advocate for UPPCB (through VC).
Mr. Shlok Chandra, Advocate for the Project Proponent-
M/s JK Cement.
Mr. Nishant Datta, Advocate for the Project Proponent-
M/s Vision Next Road Logistics Pvt. Ltd.**Application is registered based on a letter petition received by Email.****ORDER**

1. The grievance in the present application is regarding transportation of clinker for manufacture of cement through Harduaganj Railway station near village Satha District Aligarh in violation of environmental norms.
2. Vide order dated 05.09.2022, this Tribunal constituted a Joint Committee with direction to submit its report within one month. In compliance thereof, reports of the Joint Committee have been filed vide emails dated 01.12.2022, 21.12.2022 and 11.01.2023.
3. Applicant has sent affidavit by post stating that his grievance has been resolved and he does not want to continue further with the matter.
4. In view of the facts and circumstances of the case, we are of the considered view that the matter needs to be looked into for compliance with

environmental norms and for abatement of the environmental pollution. This Tribunal is empowered to take *suo moto* cognizance of such cases involving questions relating to environment arising out of the implementation of enactments specified in Schedule I of the National Green Tribunal Act, 2010 as held by Hon'ble Supreme Court in **Municipal Corporation of Greater Mumbai V/s. Ankita Sinha and others 2021 SSC Online SC 897.**

5. In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Uttar Pradesh through Chief Secretary, Government of Uttar Pradesh, (2) State PCB, (3) the District Magistrate, Aligarh, (4) the Railways and (5) the Project Proponent- M/s J.P Cement, (5) (5) the Project Proponent- M/s Vision Next Road Logistics Pvt. Ltd., who stand impleaded as respondents No. 1 to 7. The Registry is directed to prepare memo of parties to the application. Respondent no. 3,5,6 and 7 are already appearing before this Tribunal through counsel. Notices be issued to respondents no. 1, 2, 4.
6. Reply/response on behalf of the respondents be filed within one month by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.
7. List for further consideration on 20.02.2023.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 12 2023
AG

BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI
ORIGINAL APPLICATION NO. 537 OF 2022
Mukesh Kumar Chouhan Vs State of Uttar Pradesh & Ors.

15

To

1. M/s Mangalam Cement
(Project Proponent)
C.D.F. Complex, Cherath, Anupsahar Road,
Koil, Aligarh, U.P.-202001
Email: communication@mangalamcement.com/
kolkata@mangalamcement.com

(RESPONDENT NO.6)

NOTICE

Whereas the above titled Application was listed before the Hon'ble Tribunal on 12.01.2023 (copy of order, petition and report are enclosed), when the Tribunal inter-alia passed the following order (reproduced relevant extracts only):-

"5. In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Uttar Pradesh through Chief Secretary, Government of Uttar Pradesh, (2) State PCB, (3) the District Magistrate, Aligarh, (4) the Railways and (5) the Project Proponent- M/s J.P Cement, (5) (5) the Project Proponent M/s Vision Next Road Logistics Pvt. Ltd., who stand impleaded as respondents No. 1 to 7. The Registry is directed to prepare memo of parties to the application. Respondent no. 3,5,6 and 7 are already appearing before this Tribunal through counsel. Notices be issued to respondents no. 1, 2, 4.

6. Reply/response on behalf of the respondents be filed within one month by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

7. List for further consideration on 20.02.2023."

-*****-

2. Now, take further notice that the above matter will be listed for further consideration before the Hon'ble Tribunal on 20th February, 2023, at Faridkot House, Copernicus Marg, New Delhi-110001 through physical hearing (with hybrid option), when you may appear before the Hon'ble Tribunal either in person or by a pleader duly instructed, and file responses/replies, as per directions of the Hon'ble Tribunal vide Order dated 12.01.2023.
3. Take further notice that in default of your appearance on the date above mentioned, the said Application will be heard and determined in your absence.
4. Given under my hand and the seal of this Tribunal, on this 24th January, 2023.

Note: (For Orders, Cause Lists & other information, please visit our website www.greentribunal.gov.in)

24/1/2023
Consultant (Judicial), NGT



TRUE COPY

16
Annexure R-2

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

ORIGINAL APPLICATION NO. 41/2015/EZ

IN THE MATTER OF :

**ASWINI KUMAR DHAL
At PO- Jakhapura, Via Dangadi
Dist. Jajpur, Odisha-755026**

..... Applicant

-Versus-

- 1. Odisha Pollution Control Board
Through the Member Secretary,
Unt-III, Nilakantha Nagar, Bhubaneswar,
Odisha-751012**
- 2. District Collector,
At/PO Jajpur, Dis. Jajpur,
Government of Odisha,
Odisha-751 001**
- 3. The Station Manager,
Jakhapura Railway Station,
East Coast Railway,
At/Jakhapura, Dist. Jajpur-751001**
- 4. The Regional Transport Officer,
Chandikhol, Jajpur-755044**
- 5. The General Manager,
VISA Steel, Jakhapura,
Kalinga Nagar, Jajpur,
Odisha-755026**

6. The General Manager,
East Coast Railway Division,
Chandrasekharapur, Bhubaneswar, 751017

.... Respondents

COUNSEL FOR THE APPLICANT :

Mr. Sankar Prasad Pani, Advocate

COUNSEL FOR THE RESPONDENTS :

Mrs. Papia Banerjee Bihani, Advocate, Respondent No. 1
Mr. Pravat Kumar Muduli, Advocate, Respondent No. 2 & 4
Mr. Biswajit Samanta, Advocate, Respondent Nos. 3 & 6
Mr. Sambuddha Dutta, Advocate, Respondent No. 5

JUDGEMENT

PRESENT :

Hon'ble Mr. Justice S.P. Wangdi, Judicial Member
Hon'ble Prof. (Dr.) P.C. Mishra, Expert Member

Judgement reserved on : 6th May, 2016
Judgement pronounced on : 25th May, 2016

-
1. Whether the judgement is allowed to be published on the net ? Yes
 2. Whether the judgement is allowed to be published in the NGT Reporter : Yes

The applicant, a resident of village Jakhapura in the district of Jajpur of Odisha state, has approached the Tribunal under section 18(1) read with Sections 14(1) and 15(1) of the

National Green Tribunal Act, 2010 (for short NGT Act) seeking for direction to be issued upon the official respondents to take appropriate step against the respondent No. 3, the Station Master of Jhakhapura railway station, East Coast Railway and the added Respondent No. 6, General Manager, East Coast Railway Division at Chandrasekharpur, Bhubaneswar for illegally operating a Railway Siding/Stack Yard in Jakhpura railway station thereby causing severe air and water pollution in the locality leading to loss of primary productivity and pollution of water source to the detriment of health and economy of the people. Direction has also been sought against the General Manager, VISA Steel, the respondent No. 5 for contributing significant coal and iron ore dusts to the village environment, thus affecting the villagers due to transport of raw materials on the village road from the said railway siding on trucks and dumpers without any cover round the clock.

FACTS

2. The case of the applicant is that Jakhapura railway station which is located near Jakharpura village in Jajpur district with a population of about 7000 with two high schools, one primary school and one primary health centre, handles loading and unloading of raw materials like iron ore, coal and dolomite for the industrial units operating in the Kalinga

Nagar Industrial area where major industrial units are established. It is alleged that the railway station has no proper siding for handling the voluminous quantities of raw materials for loading and unloading and that even the railway platform is used as storage yard. That the railway station does not have pollution control system to control emission of air pollution and treatment of waste water and the transport of raw materials in uncovered vehicles engaged by VISA steel also adds to the pollution problems in the village.

3. In response to an application filed by the applicant under the RTI Act, it was revealed by the State Pollution Control Board of Odisha that East Coast Railway was carrying on with the activity of loading and unloading of raw materials at Jakhapura railway station without consent of the State Pollution Control Board, when it was a mandatory requirement under the law.

4. It is further the case of the applicant that the villagers had approached various authorities raising the issue in the past including the District Administration for redressal of the issue, but it yielded no result leaving the villagers to suffer from air and water pollution, agriculture loss, damage to the village road caused by loaded trucks and dumpers being plied

round the clock and even the ponds located near the railway station rendered unfit even for bathing. The applicant further allege that the information provided by the Community Health Centre, Danagadi, revealed 904 cases of Amoebiasis, 1490 cases of upper respiratory tract infection and 64 cases of Bronchitis in the locality during 2014-2015.

RIVAL CONTENTIONS :

5. In their reply, it is stated by the State Pollution Control Board (PCB), the respondent No. 1, that as per the Board's resolution No. 3369 dated 16.02.2008, activities of transportation, storage, loading and unloading of minerals at stack yards/railway sidings have been brought under consent management of the Board under 'Red Category' due to its considerable air pollution potential and accordingly, a guideline was issued which was subsequently revised in April 2010. The guidelines stipulate that for such activities existing prior to the Board's resolution of 2010, it was only necessary to obtain 'Consent to Operate' dispensing with the necessity to obtain 'Consent to Establish'. The Regional Officer of PCB at Kalinga Nagar had thus directed the respondent No. 3 by his letter No. 752 dated 30.05.2014, to obtain consent from PCB and that, till such consent was obtained, to stop the activities of siding failing which appropriate action under Section 33A of the Water Act,

1974 and Section 31A of the Air Act, 1981 would be initiated without further notice. Since the railway failed to comply with the direction, the Regional Officer of the PCB caused an inspection of the railway siding conducted on 22.01.2015 and, consequential thereto, show cause notice dated 27.01.2015 was issued against the respondent No. 3.

6. After receipt of the show cause notice on 20.02.2015, the respondent had filed an application for consent but it was found to be incomplete inasmuch as neither was the project report filed nor was information on the existing facilities in respect of pollution control measures furnished along with it. Concerned by the pollution caused by such activities even the Additional District Magistrate, Jajpur, had issued notice to the Respondent No.3 vide his letter dated 03.02.2015.

7. On a subsequent inspection carried out by the Regional Officer of the PCB on 27.02.2015, it was found that the respondent No. 3 had still not adopted any pollution control measure to arrest the dust generated by the loading/unloading activities of raw materials, and accordingly, on 04.03.2015 direction was issued to the railway by the Board to stop the operation of storage, loading and unloading. In compliance to this, the railway stopped the activities from 07.03.2015.

8. On 25.3.2015, the Regional Officer of the Board at Kalinga Nagar inspected the site of respondent No. 3 and, being satisfied with the pollution control measures undertaken by the respondent No. 3 and their willingness to take additional measures and, also in consideration of the letter of the District Administration directing them to allow respondent no. 3 to operate, the PCB revoked the closure order on 04.04.2015. However, inspection carried out by the officials of the Regional Board on 30.05.2015 and 25.06.2015 revealed that the pollution control measures adopted earlier had been withdrawn and the compliance status found unsatisfactory. Thereafter, notice was issued to respondent No.3 to show cause as to why direction should not be issued to close down the unit. This was followed by the closure order dated 22.07.2015 issued by the Board and, as revealed from the affidavit filed by the Board, the activities of respondent No. 3 had been stopped with effect from 23.07.2015.

9. The respondent No. 3, the District Magistrate and Collector of Jajpur and Respondent No. 4, the Regional Transport Officer, Chandikhol, Jajpur, strongly resisted the application contending it to be 'not maintainable' and 'wholly misconceived'. As per them, transportation of raw materials

without cover is an offence under the Motor Vehicles Act 1988 punishable under section 192(A) thereunder and 32 VCRs had been drawn up against the trucks/dumpers by the Traffic Inspector for transporting raw materials without cover. The respondent No. 2 would further state, *inter alia*, that the respondent No. 3 had been allowed to continue with the loading and unloading operation of minerals at Jakhapura Railway Siding for the time being as the BDO, Danagadi, was in the process of conducting Palli Sabha/Gram Sabha.

10. The respondent No. 5, the VISA Steel Limited, in their reply affidavit asserted that it was a reputed company, and had obtained all the required clearances, licences, consents, permissions as required under the law for carrying on their business. The roads in question by which the materials and resources of the entire industry are moved, were constructed, developed and maintained solely by Jajpur Cluster Development Limited and over eight years and was being used by more than 30 companies. It is alleged that the applicant has vested interests in instituting the case and is a miscreant who had instigated the labour Union to create pressure on the respondent No. 5 to accede to their illegal demands. The fact that a number of police cases are pending against him would make it apparent that the applicant has been indulging in illegal

24

activities in and around Jakhapura area. It is further stated that the raw materials carried by the vehicles are covered with tarpaulin to avoid any spilling and emission and precautionary and preventive measures always taken to prevent any pollution being caused by the handling and transportation of raw materials and minerals.

DISCUSSION ON MERITS :

11. We have perused the status reports and the documents on record, considered the pleadings and also heard the Learned Counsel for the parties. The fundamental question that requires determination in this case is as to whether Jakhapura Railway Station, East Coast Railway, the Respondent No. 3, would fall in the purview of consent domain under the Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974 and the Environment (Protection) Act 1986, before the Tribunal can pass directions as prayed for in the application. Considering the pleadings contained in the original application and the affidavits in opposition filed on behalf of respondents, this question appears to be answered completely in the affirmative.

12. It is an admitted position that the siding/stack-yards was established by the East Coast Railway for storage, loading and unloading of raw materials in Jakhapura Railway Station prior to the year 2008 when these activities were not listed for consent management of the State Pollution Control Board. It was only in 2008 that the Pollution Control Board included "transportation, storage, loading and unloading of minerals at stack yard/ railway siding under "Red Category" thereby bringing such activities within the purview of consent management. Consequently, the earlier guidelines were revised in 2010 and circulated by the Board, relevant portions of which are reproduced below :

"GUIDELINES FOR PROCESSING OF CONSENT APPLICATION FOR MINERAL STACK YARD AND RAILWAY SIDING

Transportation, storage, loading and unloading of minerals at Stack-yards/Railway siding have considerable air pollution potential. These activities have been brought under consent administration of the Board under **RED category** as per **Board's Resolution No.3369 dated. 16.2.08**. Applications for grant of consent to these activities are to be disposed of by concerned Regional Offices as per the **delegated power vide letter No.2186 dated.31.1.08**. The Board issued guidelines to regulate stack-yards and railway siding in April 2008. The Board received certain submissions from various stakeholders indicating certain ambiguity and operational difficulties in implementing the guidelines. Thus to further streamline it and to make it implementable, a consultative meeting with all stakeholders was convened on 31.10.09 and their views were considered. In order to facilitate timely disposal of applications and to make the procedure uniform the following guidelines are issued. These guidelines superceed the guidelines issued in April 2008 vide Board's letter no.9718 Dt.24/04/08 and the additional guidelines issued vide Board's letter no. 17924 dt.29/10/09.

1. DEFINITION :

1.

i) **Stack – yard** : Stack-yard means mineral stack yard over an area, which is used to receive, store either for a short period or long period, load/unload and dispatch minerals from the site and requires a trading license under Orissa Mineral (Prevention of Theft, Smuggling and illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules 2007.

ii) **Railway-siding** : A railway-siding is a place/area which is used to receive, temporarily store and load/unload material in the rakes and dispatch materials.

iii) **Cluster of stack –yards** : A cluster of stack-yards means a group of stack-yards having at least one common boundary, who enter into an agreement among them to remain collectively responsible to maintain the pollution control system while operating the stack-yards.

2. APPLICABILITY :

i) The railway-siding , stack-yards and clusters of stack-yards of minerals, which are already established and operating prior to the date of Board's Resolution i.e 16.2.08 are required to only obtain consent to operate from the Board.

ii) Railway-siding, stack-yards and clusters of stack-yards, which are established after the date of Board's Resolution i.e 16.2.08 or, to be established thereafter are required to obtain consent to establish first and then consent to operate from the Board.

iii)

iv)

v)

vi).....

3. APPLICATION FORM :

The applicant shall apply for consent to establish and consent to operate (as applicable) in the prescribed form of the Board alongwith additional information in the format as per Annexure-1 .

4. SITING CONSIDERATIONS (MINERAL STACK-YARD) :

Consent to Establish applications for mineral stack-yards shall be considered on the basis of the following site suitability criteria.

i) The boundary of proposed site shall be at an aerial distance of at least 100 meter from State/National Highway.

ii) The boundary of the proposed site shall be at an aerial distance of at least 500 meter away from Schools, Colleges, Hospitals, Archaeological monuments, and other sensitive areas.

iii) It shall be ensured that run-off during rain from the proposed site, any water body, which is used by local people, remains at minimum possible level.

iv) Location of the stack-yard should be such that there is no public inconvenience for parking or movement of vehicles.

v) The applicant for consent to establish shall obtain a NOC from Sarpanch following a gram sabha if it is proposed in a rural area or obtain NOC from the concerned ULB in case of urban area.

vi) In case of new cluster the proposed site shall conform to the above stipulations for citing as a whole.

5. ENVIRONMENTAL ASSESSMENT :**a) Check list of Environmental Issues :**

The following issues shall be taken into consideration for environmental assessment.

- i) Siting of facility and proximity of nearby dwellings.
- ii) Compatibility of the activities with surrounding land use.
- iii) Need for isolating the operational areas or any additional precautionary measure to be undertaken.
- iv) Likelihood of the materials proposed to be handled to create dust nuisance.
- v) Proposed dust control measures.
- vi) Storm water management system and disposal practice.
- vii) Possibility of discharge to nearby water bodies.
- viii) Bunding of storage area and its appropriateness

- ix) Impact on nearby residents, beyond normal working hours.

b. Standard conditions (RAILWAY SIDING AND MINERAL STACK YARDS) :

The following conditions may be imposed for pollution control while granting consent to establish/consent to operate for railway siding and mineral stack-yards. These conditions are only indicative and not exhaustive.

House Keeping :

.....”

13. The matter having travelled to the Hon'ble High Court of Orissa, it was clarified vide its order dated 24/01/2011 in Writ Petition (C) No.21867/2010 that it was mandatory under the revised guidelines of 2010 issued by the State Pollution Control Board for the Railway to obtain consent for establishment and operation of any railway siding, even if it is owned and operated by the railway authorities. This led to a resolution being passed by the Board that was notified vide reference no. 11025/IND-II-NOC(Misc)-40 dated 06.07.2011 which is reproduced as under :

**“ STATE POLLUTION CONTROL BOARD, ORISSA
Paribesh Bhawan, A/118, Nilkanthanagar, Unit-VIII
Bhubaneswar-751012**

No.11025/IND-II-NOC(Misc)-40 Dt. 06.07.11

RESOLUTION

The Board in its 100th meeting held on 23.3.2010 decided to implement the modified set of guidelines for environmental management in minerals stack-yards and railway sidings.

Accordingly, a resolution was brought out in this regard vide letter No. 6559 Dated 19.4.2010.

1. In the above guidelines, it was stipulated that the railway sidings owned maintained and operated by Indian Railway Authorities shall implement all pollution control measures within a period of six months. They will not obtain consent from the Board, however, they will be required to ensure self-regulation for implementation of Water Act, Air Act and good housekeeping practice as stipulated in above guidelines and furnish environmental management plan as well as annual return in the prescribed format to concerned Regional Office, State Pollution control Board. The Hon'ble High Court of Orissa in W.P. (C) No. 21867/2010 have passed orders on 24.1.2011 that for establishment and operation of any railway siding consent of the Board is mandatory even if it is owned and operated by the Railway Authorities.

In view of the above, the Board in its 102nd meeting held on 15.3.11 resolved that the guidelines prepared for environmental management in mineral stack-yards and railway sidings will also be applicable for Railway authorities and they shall obtain consent from the State Pollution Control Board to establish and operate railway sidings.

2. Clause 4(i) of the above guidelines stipulates that the boundary of the proposed site of mineral stack-yards shall be at an aerial distance of at least 100 m from the State/National Highways. But, the guidelines is silent about the distance criteria from the Express Highways and industrial transport corridors.

The Board in its 102nd meeting also decided that the express highways and industrial transport corridors will be considered at par with National/State Highway.

30

This resolution is in partial modification to earlier resolution No. 6559 dt. 19.4.2010 of the Board and will come into force with immediate effect.

By order of the Board
Sd/-
MEMBER SECRETARY "

14. From the above, it would be abundantly clear that seeking consent from the PCB for establishment and operation of any siding, had become mandatory even if it was owned and operated by the Railway.

15. Power of the State Pollution Control Board to grant consent is provided under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 and under section 21 of the Air (Prevention and Control) Act, 1981. The object of the Water Act, 1974 as would appear from its preamble, is to provide for prevention and control of water pollution and maintaining or restoring wholesomeness of water and, that of the Air Act 1981 for prevention, control and abatement of air pollution and for establishment of Boards and matters cognate thereto. Both the Acts contain prohibitory, regulatory and punitive provisions which mandate that no person shall, without the previous consent of the State Board, establish or take any steps to establish any industry, operation or process of any treatment and disposal system or any extension or addition

thereto, which is likely to discharge untreated sewage or effluent into streams or wells or sewer or on land. The Board is empowered to issue directions including closure of an industry and disconnection of essential supplies to it as envisaged under section 5 of the Act of 1986.

Similarly, the Air Act vests the Boards with the power to issue directions for complete restriction of an activity in the notified air pollution control area. Section 21 of the Act prohibits any person from establishing and operating any industrial plant in air pollution control area, without the previous consent of the State Board. Like Section 33A in the Water Act, Section 31A was introduced in the Air Act vesting the Boards not only with the power to issue directions of closure, prohibition or regulation of any industry, but also operation or process or disconnection of essential supplies to an industry or a plant.

16. The provisions of the Acts demonstrate the object and legislative intent to prohibit establishment or any activity, which would result in emission of toxic gases to the air, discharge of domestic, municipal or industrial effluents to land or water. 'Consent' under these laws is contemplated at two stages i.e., firstly, at the stage of establishing such plant, industry, etc. and secondly, at the time of putting the unit into operation. Thus, the law imposes dual obligation upon the person or industry.

32

Firstly, it has to take the consent of the Board and secondly, it must ensure adherence to the prescribed conditions/parameters of the laws in force and, the responsibility of complying with the laws is placed exclusively on the person or industry.

17. Let us now examine as to whether in the present case, law has been complied with by the East Coast Railway, the Respondents no. 3 and 6.

18. It is pertinent to note that on the very first day i.e., 29th May, 2015, when this matter was taken up for admission, it was noted by this tribunal that action had been initiated by the Odisha State Pollution Control Board in issuing a show cause notice upon the Respondent No. 3 in respect of the transportation, storage, loading and unloading of minerals on the stack yard/railway siding followed by a closure notice which, however, was found to have been withdrawn later in spite of the fact that the siding was still being operated by the Railway without consent. Direction was thus issued upon the Odisha Pollution Control Board to file a report in the form of an affidavit explaining the reason as to why the closure notice had been withdrawn and at the same time, also directing them to take steps in accordance with law on the allegations contained in the application.

19. The affidavit filed by the Odisha Pollution Control Board in compliance to the above direction, contained surprising revelations which in short are as follows :- .

- (i) It was highlighted in the affidavit that Jakhapura railway siding of East Coast Railway was established prior to the year 2008 and therefore, as per Clauses 2 (ii) of the Guidelines of For Environmental Management in Mineral Stack Yards And Railway Sidings prescribed by the Board dated 16.4.2010 , it was only required to obtain 'Consent to Operate' under Sections 21 and 25 of the Air (PCP) Act 1981, and Water (PCP) Act 1974 respectively. Clause 4 (v) of the guidelines was also referred to whereby, it was stated that it was mandatory to obtain NOC from the Sarpanch following a Gram Sabha, if the project was being proposed in rural area, and urban area from the concerned ULB in case of urban area ;
- (ii) The Respondent No.3 did not furnish prior information of the date of commissioning of the siding;
- (iii) The Board insisted that Respondent No.3 should submit NOC from the Gram Sabha;
- (iv) Later, it was informed by the Respondent No.3 that it was not required to submit NOC in support of the application for 'Consent to Operate' under the guidelines at the

3A

siding/mining stack yard was commissioned prior to the year 2008;

- (v) The Board then issued letter No. 752 dated 30.05.2014 directing to Respondent No.3 to obtain 'consent' and until the 'consent' was granted, to stop all operational activities;
- (vi) The respondent No.2 , inspected the railway siding on 22.1.2015 and based on the inspection report, show cause notice was issued to the Respondent No.3 as to why direction of closure under Section 33A of Water (PCP) Act 1974 and 31 A of Air (PCP) Act 1981 should not be issued in respect of the railway siding;
- (vii) In his reply dated 13.02.2015 to the show cause notice, the Station Master, East Coast Railway, Jakhapura, it was stated that the Respondent No. 5, i.e., M/s VISA Steel Ltd., had taken necessary steps to implement pollution control measures and that the matter had been referred to higher authority and further that a Demand Draft for Rs. 30,966/- had been drawn for 'consent to operate' for 3 years and sent to the Regional Officer;
- (viii) Since show cause reply did not contain information on the project report and the existing pollution control measures adopted , an inspection of the railway siding was carried out 27.02.2015 during which, it was found that Respondent No.3 had not adopted any pollution

control measure to arrest the dust generated by the unloading of raw materials. Thus, that the Regional Officer issued a letter dated 04.03.2015 directing the Respondent No.3 to stop the activities.

- (ix) In response to the letter dated 04.03.2015, the Respondent No.3 in his letter dated 11.03.2015, while admitting that the railways had not obtained necessary consent from the State Pollution Control Board, informed the Regional Office that the work of unloading and loading at the Jakhapura Railway siding had been stopped from 07.03.2015 and, requested for one month's time for holding "Palli Sabha" for the purpose of obtaining NOC.
- (x) Inspection carried out by Regional Office on 25.03.2015 found the Respondent No.3 in full compliance of the statutory requirements and had also proposed to adopt more pollution control measures and even the District Administration, Jajpur, had made a request to the Regional Office to allow the Respondent No.3 to operate the railway siding;
- (xi) In view of the recommendation contained in the inspection report, the State PCB reconsidered its earlier decision and revoked the direction of closure issued vide letter dated 04.04.2015 ;

36

(xii) Since Regional Office of the Board have been directed to monitor the progress of implementation of the pollution control measures, inspection of the site was carried out by the officers of Regional Office on 30.05.2015 and 25.6.2015 and found that the pollution control measures installed earlier based upon which the inspection report dated 25.03.2015 had been submitted, had been removed and the status of pollution control measure adopted by the unit unsatisfactory. Show Cause notice was thus issued again to the Respondent No.3 vide letter dated 07.07.2015 as to why direction of closure under Section 33A of Water (PCP) Act 1974 and Section 31A of the Air (PCP) Act 1981 be not issued.

20. The aforesaid sequence of events set out in the affidavits filed by the State Pollution Control Board narrated above, in our view, demonstrates the indifference of the railway and their deliberate defiance of the laws and also the disdain with which they treat statutory authorities.

21. In the instant case, after the guidelines were revised by the PCB whereby the railway having siding/stack-yard activities fell under the purview of the consent management with effect from 06.7.2011, the East-Coast Railway ought to have

applied for consent from the Board immediately. Surprisingly, however, the railway continued with the operation of the facility without caring to apply for consent and, the PCB on the other hand remained a silent spectator to the commission of such illegality. It was only after representations were submitted by the local people of Jakhapura to various authorities regarding the severe pollution in the area caused thereby that on 30.05.14 the Regional Officer of PCB at Kalinga Nagar ultimately wrote to the railway directing them to obtain consent from PCB and, in the meanwhile, to stop the activities of the siding/stack yard.

22. We also find it quite shocking to note that the railway, being the largest Government organisation in the country preferred not to respond and to disdainfully ignore the notice/direction of the PCB compelling PCB to conduct an inspection on 22.1.2015. The report of the inspection, that revealed gross failure of the railways to follow the anti-pollution norms, is reproduced below for convenience :-

**"INSPECTION REPORT OF JAKHAPURA RAILWAY
SIDING OF EAST COAST RAILWAY AT-
JAKHAPURA DIST. JAJPUR**

The aforesaid railway siding of East Coast Railway was inspected on 22.01.2015 to verify the pollution control measures adopted. The detail description of the observations on the above mentioned

38

date of inspection is as follows :-

1. The East Coast railway has been operating one railway siding at Jakhapura Rail Station ,opposite side of the main platform at Track No. 6.
2. The platform attached to Track No. 6 is concreted and this platform is being used for loading and unloading activity of minerals. The minerals after unloading from the rack are supplied to different industries at Kalinga Nagar Industrial complex of Jajpur District.
3. The unit has neither obtained Consent to Establish nor Consent to Operate from the Board in respect of operation of mineral stockyard.
4. The railway siding was earlier communicated vide letter No. 752 dt. 30.5.2014 to stop the operation activity till they obtain consent to establish and consent to operate.
5. The unit has not installed any fixed water sprinklers around the mineral storage area.
6. There is neither drainage facility which exists around the platform area nor any settling pond.
7. The unit has not provided any protection measures to restrict the flow of waste water from the stock yard area to adjacent cultivated lands.
8. Boundary wall is also not completed along the railway siding.

Conclusion :-

1. The overall environmental compliances of the aforesaid mineral stockyard was not satisfactory.
2. The unit has not applied Consent to Establish and Consent to Operate to the Board.

Recommendation :

The unit may be issued Show Cause Notice.

Sd-
SRI B.Marndi, AES

Sd/-
Sri S.Mohanty, AEE "

23. Alarmed by the serious deficiencies as indicated above, a show cause notice was issued by the Regional Officer to the respondent No.3, the Station Master, Jakhapura Railway station which reads as such :-

“REGIONAL OFFICE OF THE
STATE POLLUTION CONTROL BOARD,ODISHA

DEPARTMENT OF FOREST & ENVIRONMENT,
GOVT. OF ODISHA
Common Facility Centre, JCD, Kalinganagar
Dist. Jagpur-755026, Odisha, India

No. 230

Dt. 27-01-2015

SHOW CAUSE NOTICE UNDER SECTION 25/26 OF
WATER (PREVENTION & CONTROL OF POLLUTION) ACT,
1974 AND UNDER SECTION 21 OF THE AIR (PREVENTION
& CONTROL OF POLLUTION) ACT, 1981

Whereas you are operating Railway Siding at Jakhapura Railway Station (East Coast Railway) without obtaining Consent to Establish/operate from State Pollution Control Board, Odisha as per provisions contained in section 25/26 of Water (Prevention & Control of Pollution) Act, 1974 and section 21 of Air (Prevention & Control of Pollution) Act, 1981'

And Whereas a letter was communicated from this office to you vide letter No. 752 dtd. 30.05.2014 to stop all operational activities of Jakhapura Railway Siding forthwith till consent to establish/operate is obtained from the Board. It was also mentioned that as per the Resolution No. 3369 dt. 16.02.2008 of the Board, the stock yards and railway sidings which are already established and operating prior to the date of Board's Resolution are required to obtain consent to establish/consent to operate from the Board.

And Whereas you have not made any communication to this office for implementation of pollution control measures and towards obtaining Consent to Establish and Consent to Operate from the Board.

And Whereas you have not installed fixed water sprinklers/any other pollution control measures for air/water pollution control measures.

And Whereas unloading and handling of raw materials/minerals and transshipment through heavy vehicles were found to be taking place in the close proximity to nearby industries through nearby village roads. Such activity has a high potential to pollute the ambient air quality in the vicinity.

And Whereas your Railway Siding was inspected on 22.01.2015 and it was observed that the following non-compliances were observed :-

1. You are still operating your unit without obtaining consent to establish/operate from the Board even

after issuance of directive vide this office letter No. 752 dtd. 30.05.2014.

2. You have not yet installed any fixed water sprinklers at material storage area for suppression of dust particles, proper drainage system collection of waste water.
3. You have not provided any facilities to stop flow of water from the siding to nearby lands during rain;

Now, therefore, you are directed to show cause within 21 days from the date of issue of this notice as to why direction of closure under section 33A of the Water (PCP) Act, 1974 and 31A of the Air (PCP) Act, 1981 shall not be issued to your Railway Siding without giving further opportunity. In case, you fail to submit any explanation within the stipulated date and/or cause shown by you are found to be not satisfactory, an ex-parte decision in this matter shall be taken for issuance of direction of closure under section 33A of the Water (PCP) Act, 1974 and 31A of the Air (PCP) Act, 1981 directing the appropriate authorities to seal your Railway Siding and other facilities/services etc. to your unit without giving further opportunity. If you are interested for a personal hearing the same may be indicated in your reply.

Sd/-

Regional Officer,

To
Station Master,
Jakhapura Railway Station (East Coast Railway)
At Jakhapura, PO Jakhapura,
Dist. Jajpur "

24. In his reply to the show cause, the Station Manager, East Coast Railway, Jakhapura in letter dated. 13.2.2015 (annexure-F/1 at p. 69) instead of dealing with the responsibility of the railway in complying with the pollution control norms, informed the Regional Officer, State PCB,

Odisha that on 28.1.2015, VISA Steel Ltd and Maithan Ispat Ltd. had been asked to take necessary measures for preventing air and water pollution at Jakhapura and that in the meantime, VISA Steel Ltd. had taken steps and implemented the pollution control measures like sprinkling water during unloading and shifting of their cargo from railway siding to their plant and, covering their loaded vehicles with tarpaulin. While further informing that a demand draft for Rs. 30,966/- had been sent by the Divisional Commercial Manager, East Coast Railway, Khurdha towards consent fee, it was not disclosed in the letter as to whether or not they had submitted application for consent to the Pollution Control Board. By a subsequent letter dated 19.12.2015, the Station Manager forwarded photocopies of shifting clearance memos of Maithon Ispat Ltd, Jindal Steel Ltd., Dinabandhu Steel Ltd., etc. (Annexure-G/2 p. 70) and statement of unloaded rakes of different companies from January 2007 to January 2008 at Jakhapura. The letter thus reveals that although, apart from the Respondent No.5, VISA Steel, many other companies were involved in transportation, loading and unloading of raw materials in Jakhapura Railway Station, nothing has been found to have been stated as regards its own responsibility except a vague suggestion that for obtaining 'consent to

operate' the railway was not required to submit NOC in support of their application therefor.

25. Inspection of the railway siding carried out for the second time on 27.02.2015 by a team of three Scientists from the State Pollution Control Board revealed that the railway siding had not adopted any pollution control measures to arrest the dust generated due to unloading activities of raw materials and that the siding was still functioning without obtaining consent from the Board. We may for the sake of better appreciation of the matter reproduce below the inspection report :-

" INSPECTION REPORT ON RAILWAYSIDING LOCATED AT JAKHAPURA RAILWAY STATION (EAST COAST RAILWAY) AT/PO JAKHAPURA, JAJPUR

Dt. Of Inspection - 27.02.2015

1. The Jakhapura railway siding is located at the opposite side of the Jakhapura railway station at Jakhapura under Danagadi Tahasil of Jajpur district. On the day of inspection Mr. Raghunath Panda, Station Superintendent was present.
2. The Jakhapura Railway Authority has constructed Rout No. 4 (Platform) for transport of raw materials. The loading and unloading are is completely concrete. The railway siding does not have any covered shed.
3. The Station Superintendent informed that the siding is functioning since 2005 for loading and unloading of pig iron, Coke, Iron ore, Lime Stone, Dolomite and Coal etc. by the industries of Kalinga Nagar areas.
4. The raw material is being loaded/unloaded on the open platform. Mr. Panda, informed that the loading/unloading activities is being done both manually and mechanically.

5. The concrete flooring of the Railway siding was found to be in dilapidated condition in various places.
6. The height of the boundary wall is approx. 5 ft. & maximum upto 1/3 length of Railway siding.
7. The authority has not provided any dust suppression system to minimize the dust generated from the site during loading & unloading of the materials.
8. No garland drain & setting pit have been constructed on the Railway siding.
9. No plantation at the site was observed.
10. During the time of inspection no loading and unloading activity was going on & so the AAQ monitoring could not be conducted.
11. The Housekeeping of Railway siding was found not satisfactory.
12. **Nearby Habitations** : At one side of the railway siding railway staff quarters is present and in other side station sahi at about 500 meter and a temple is present at about 150 mt. Distance. Two number of ponds are situated at about 50 mts. distance from the boundary wall of the railway siding. The close proximity of the railway siding is covered by agriculture land.

RECOMMENDATIONS : The railway siding has not adopted any pollution control measures to arrest the dust generated due to unloading activities of raw materials. The siding is functioning without obtaining consent from the Board . After Show Cause notice issued vide L.No.230 dt.27-01-2015, the authority has applied for consent to Operate to the Board on 20-02-2015. So, necessary action may be initiated in favour of the railway siding.

Sd/-

Sd/-

Sd/-

Inspecting Officer

Inspecting Officer

Inspecting Officer

(Er. S.N.Mohanty, AEE)

(Dr.R.K.Mishra, DES)

(Dr.A.K.Mallick,RO)"

26. Considering the aforesaid report, "stop operation" order was issued by the Regional Officer for immediate implementation by the Jakhapura Railway station in exercise of the powers conferred under the provisions of Sec. 33(A) of the Water Act 1974 and Sec. 31(A) of the Air Act, 1981. Reproduced below for convenience is the said "stop operation" order :-

" REGIONAL OFFICE OF THE
STATE POLLUTION CONTROL BOARD, ODISHA
DEPARTMENT OF FOREST & ENVIRONMENT, GOVT. OF ODISHA
Common Facility Centre, JCD, Kalinganagar
Dist. Jagpur-755026, Odisha, India

No. 621

Date.04-3-2015

To

The Station Master,

Jakhapura Railway Station (East Coast Railway)
At Jakhapura, PO : Jakhapura
Dist. Jajpur

Sub: Stop operation on Mineral loading & Unloading activity of
Jakhapura Railway Siding (East Coast Railway)-

Sir,

You are operating a railway siding at Jakhapura Railway Station (East Coast Railway) without obtaining Consent to Establish/Operate from State Pollution Control Board, Odisha. Many public complaints were received by this office regarding air pollution due to loading, unloading & transportation of Minerals from Railway Siding to different industrial units at Kalinga Nagar Industrial complex. Loading, unloading and handling of minerals and subsequent transportation through heavy vehicles were found to be taking place in the close proximity to Railway siding and nearby residents of village Jakhapura and adjoining area for which Show Cause Notice was issued vide No. 230 dt. 27.01.2015. Based on Show Cause Notice from the Board, Additional District Magistrate, Jajpur also issued Show Cause Notice vide No. 304 dtd. 03.02.2015.

As per the Resolution No. 3369 dated 16.02.2008 of the Board, the stock yards and railway sidings which are already established and operating prior to the date of Board's Resolution are required to obtain consent to establish/operate from the Board. Accordingly, you have applied for consent to operate to the Regional Office which received on 20.02.2015 without submitting NOC obtained from Jakhapura Gram Panchayat. But neither have you furnished any project report nor have you submitted the existing facilities with respect to pollution control measures in the railway siding area. Subsequently, officers from State Pollution Control Board, Kalinga Nagar visited the aforesaid railway siding on 27.02.2015 and it was observed that you have not provided pollution control measures like provision of garland drain, settling pit, complete boundary wall, water sprinklers, green belt which is needed as per the guidelines. The housekeeping was also observed to be not satisfactory.

Now, in exercise of the powers conferred under the provisions of 33(A) Water (Prevention and Control of Pollution) Act, 1974 and 31(A) of Air (Prevention and Control of Pollution) Act, 1981, you are directed to stop operational of mineral loading and unloading activities of Jakhapura Railway siding forthwith till you obtained consent to operate from the Board. Violation of above directives shall be viewed seriously and appropriate legal action will be initiated against you without giving further notice.

Yours faithfully,

Sd/-
Regional Officer "

27. In his letter dated 11.03.2015, the Station Manager while acknowledging the receipt of the 'stop operation' order of the Board, informed that work at railway siding had been stopped, requested for reconsideration of the decision as the ADM, Jajpur, had already taken immediate action to resolve the issue remarking that that the Board ought to have waited for the receipt of NOC from ADM, Jajpur, before issuing the 'stop operation' order. We may reproduce below of Station Manager letter dated 11.3.2015 which we find it to make an interesting reading :-

"From Station Manager, E.Co.Rly, JKPR, Jkpr/Pollution/12/15	To	The Regional Officer, SPCB Odisha, Jakubga Nagar, Jajpur.
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Date. 11/3/15

Sub : Reconsider on Mineral loading & unloading activity of
JAKHAPURA Railway Siding (E.CO.Rly)

Ref: Your letter No. 623 date. 04/03/15.
My letter No. JKPR/AIR/WATER/POLLUTION/12/15 date.
19/02/15.
ADM/JAJPUR LETTER NO. 1-J-08/2015/443 Dt. 19/02/15.

Sir,

After receiving your letter, I implemented your order i.e. stopped unloading & loading at Jakhapura Railway siding from 07/03/15 as railway is not obtained consent from State Pollution Control Board, Odisha as mentioned in your letter. But for obtaining consent NOC from "PALLI SABHA" of Jakhapura locality is highly necessary for which I had given appeal to you for enhancing one month time conducting PALLI SABHA by Govt. of Odisha. In the same day I had also given a copy of appeal to ADM/Jajpur for early compliance.

46

ADM/Jajpur has also taken immediate action as reflected in his letter which is enclosed for your reference. I very much sorry to say that before receiving NOC from ADM/Jajpur you exercised your power to stop the operation at Jakhapura railway siding.

Hence, I request you for the greater & better interest of the Govt. companies & public reconsider on your imposed order & issue necessary instruction to continue.

Sd/-
STATION MANAGER

Copy to Additional District Magistrate, Collectorate, Jajpur."

28. In order to ascertain the circumstances under which the District Administration, Jajpur, had intervened in the functioning of the PCB, an independent statutory authority, we, by order dated 22.07.2015, directed the Respondent No. 1, to file an affidavit with particular reference to the correspondence made by the District Collector. With the additional affidavit filed by the Respondent No. 1, i.e., the State Pollution Control Board, in compliance of the said direction, letter no. 89 dated 16.3.3015 of the Collector and District Magistrate, Jajpur, addressed to the Regional Officer was thus filed which reads as follows :-

"COLLECTORATE JAJPUR
(Judicial Section)
No. 89 dated 16/3/15

From

Shri Anil Kumar Samal, IAS
Collector & District Magistrate, Jajpur

To

The Regional Officer,
State Pollution Control Board, Odisha,
Common Facility Centre, JCD, Kalinga Nagar,
Dist. Jajpur.

Sub : Stop operation on mineral loading & unloading activity of
Jakhapura Railway Siding.
{East Coast Railway}

Ref : This office Memo No. 694 dt. 13.3.15 and your letter No. 623 dt.
4.3.2015

Sir,

With reference to the letter on the subject cited above, you are directed to allow loading & unloading operation of minerals at Jakhapura Railway Siding (East Coast Railway) for the time being since conducting of Palli Sabha/Gram Sabha by the BDO Danagadi is under process.

Yours faithfully,
Sd/-
Collector & DM, Jajpur "

29. As would appear from the letter, the Regional Officer was directed by the Collector and DM, Jajpur (Respondent NO.2), to allow the activities at Jakhapura Railway Siding for the time being because conduct of Palli Sabha/Gram Sabha by the BDO, Danagadi, was under process.

30. The question that would then arise is as to whether the DM was possessed of the power to pass such direction. As the steps being taken by the State PCB in issuing the notices and passing the directions under consideration, were in pursuance of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, it would be necessary to examine the provisions of both the Acts on the issue. In doing so we find that Section 18 of both

the Water Act, 1974 and Air Act, 1981 which are identically worded vests only the Central Board and State Government with the general power to give directions to the State Board as would appear from the provisions reproduced below :-

Water (Prevention and Control of Pollution) Act, 1974

" Section 18.

Power to give directions :- (1) In the performance of its functions under this Act-

- (a) The Central Board shall be bound by such directions in writing as the Central Government may give to it; and
- (b) Every State Board shall be bound by such directions in writing as the Central Board or the State Government may give to it.

Provided that where a direction given by the State Government is inconsistent with the direction given by the Central Board, the matter shall be referred to the Central Government for its decision."

2.

3.

4."

31. While issuing the direction, the District Magistrate has not disclosed the source of the power under which he could issue such direction. In any case, such a direction could not have been issued as the activity of siding/stackyard, as already discussed, cannot be carried on without prior consent of the Board, being mandatory under the Air and Water Acts. Thus, direction of the District Magistrate issued upon the Regional Officer to allow operation of the siding unit pending grant of "consent to operate certificate" is bad in law and by doing so the

District Magistrate has unmistakably exercised a jurisdiction which he did not have.

32. The State Pollution Control Board, as would appear from their pleadings in their affidavit, had informed the Station Master, Jhakapura Railway Station, the Respondent No. 3, that under the guidelines dated 16.04.2010 issued by the State PCB, the Respondent No. 1, the railway siding having been established prior to the year 2008, it was necessary only to obtain consent to operate from the Board and, that for any such new project before consent to operate can be granted, it was mandatory to obtain consent to establish for which NOC from Sarpanch/concerned ULB was mandatory. That this position was in the knowledge of the respondent No. 3 would be evident from the fact he had informed the Board that since the commissioning of the unit prior to 2008, the railway was not required to submit NOC for consideration of application for consent to operate. It is of relevance to note that application for consent was filed by the railway before the Board on 20.2.2015 whereas the District Magistrate's direction to the Regional Officer that was issued on 16.03.2015 was much after.

33. By the same order dated 18.01.2016, we directed the District Magistrate and Collector, Jajpur, to explain

50

on oath the power vested in him under the Air Act, 1981 to issue direction to the Regional Officer, PCB to allow the railway to continue with their Loading and Unloading activities pending the grant of consent. The submissions made in the reply affidavit at page 320 of O.A to the queries from the Bench are as follows :-

- i) The Collector has no power to issue direction under the law. He has only to give no objection for the purpose of grant of consent to establish.
- ii) The Collector has not 'directed' but had only 'requested' the RO.
- iii) The letter of the Collector was never acted upon by the State Pollution control Board which was a mere recommendation having no effect unless it was approved and acted upon by the Authority concerned.

34. The explanation given in the affidavit obviously is contrary to the contents of the letter dated 16.03.2015 as would be apparent from a bare reading of the letter extracted earlier. It is difficult for us to accept that a District Collector, who presumably is a senior officer in the IAS cadre, is unable to distinguish between the words 'directed' and 'requested'. Even the third contention that the letter of the Collector was not given effect to is apparently incorrect as an inspection team, which

carried out an inspection, in their report has categorically referred to the letter of the Collector in the column for recommendation and, while revoking the closure order pending grant of consent, the Chairman, PCB, had taken into consideration the report of the inspection team upon which we shall allude to shortly hereafter.

We thus, find the reply of the district Collector to be grossly unsatisfactory and, in our considered opinion, the functioning of the District Collector in the matter to be most improper and left much to be desired.

35. On 25th March 2015 when the application of the railway siding unit seeking consent to operate was still pending, the Board conducted another inspection, as adumbrated above, by a team consisting of following scientists:-

1. Dr. Anup Kumar Mallik, Regional Officer
2. Dr. R.K.Mishra, Dy. Environmental Scientist
3. Sri Bhinsen Marndi, Asst. Environmental Scientist
4. Er. Soumendra Mohanty, Asst. Environmental Engineer.

The inspection report submitted by the team by

which the unit was found to be compliant is reproduced below:-

" INSPECTION REPORT OF M/S JAKHAPURA RAILWAY SIDING (EAST COAST RAILWAY) AT JAKHAPURA, P.O.-JAKHAPURA, DIST.-JAJPUR

1	Date of Inspection	25-03-2015			
2	Name of Inspecting Officer	Dr. Anup Kumar Mallick, Regional Officer Dr. R.K.Mishra, Dy. Env. Scientist Sri Bhinsen Marndi, Asst. Env. Scientist Er. Soumendra Mohanty, Asst. Env. Engineer			
3	Nature of the Project	Private Railway siding for unloading & stacking of iron ore, coal dolomite and loading/dispatch of the same to the nearby industries through Trucks. The Jakhapura Railway unit has been operating its platform No. 6 for loading and unloading of minerals like iron ore, coal, dolomite etc. It has applied Consent to Operate to the Board.			
4	Person present during inspection	Sri R.N.Bala, Station Superintendent			
5.	Name & address of the Proponent/ Occupier	Shri Raghunath Panda, Station Manager Jakhapura Railway Station, East Coast Railway at Po-Jakhapura, Dist. Jajpur.			
6.	Project Details	Project Cost (Lacs)	Project Location	New/Expansion	Area in Acre
		38.638 Lakhs	Jakhapura Rly Siding	Existing siding Before 16.02.2008	Length 700m with 28m width which is concreted platform adjacent to line No. 6
7.	Project details for which CTE is applied	Principal projects/By project Railway siding for unloading & Stacking of iron ore, Iron Pellet, coal, Coke, dolomite, and Quartzite for Loading/dispatch of the same to the Nearby industries through Trucks Principal Raw Materials		Quantity per month 7698 MT/Day	
8.	Principal raw Material including fuels	Principal Raw Material Railway siding for unloading & stacking of iron ore, Iron Pellet, coal, coke, dolomite, and Quartzite for Loading/dispatch of the same to the nearby industries through Trucks		Quantity Per month 7698 MT/Day	

9.	Site description and its compliance to the notification by OSPCB during April 2008	<table border="1"> <tr> <td data-bbox="695 264 970 757">Nearby habitation detail E.W.N.S. direction (The habitation should be at safe distance)</td> <td data-bbox="970 264 1238 757">Jakhapura village is situated at North direction which is about 520 m distance from Railway track. Kendudhipi Village is situated at South West direction which is about 2 km distance from railway track. Rabana village is situated at West direction which is about 740 m distance from railway track</td> </tr> <tr> <td data-bbox="695 757 970 880">Nearby highway (The nearest highway should be at safe distance)</td> <td data-bbox="970 757 1238 880">Duburi Chandikhol Express highway is about 5.3 km.</td> </tr> <tr> <td data-bbox="695 880 970 1093">Nearby Industries</td> <td data-bbox="970 880 1238 1093">*Visa Steel Ltd. *Maithan Ispat Ltd. *Jindal Stainless Ltd. *Yajdani Steels Ltd. *Rohit Ferro Tech. Ltd. & MESCO Steels Ltd.</td> </tr> <tr> <td data-bbox="695 1093 970 1238">Water body (The nearest water body should be at safe distance)</td> <td data-bbox="970 1093 1238 1238">Brahmani River is about 4 km distance</td> </tr> <tr> <td data-bbox="695 1238 970 1574">The site should be at least 1 km away from nearest school, College, Hospital, Archaeological monuments, market place and other sensitive areas</td> <td data-bbox="970 1238 1238 1574">There is no school, college, Hospitals, Archaeological monuments, market place and other sensitive areas within one km. There is one Temple near 60 m distance from the siding.</td> </tr> </table>	Nearby habitation detail E.W.N.S. direction (The habitation should be at safe distance)	Jakhapura village is situated at North direction which is about 520 m distance from Railway track. Kendudhipi Village is situated at South West direction which is about 2 km distance from railway track. Rabana village is situated at West direction which is about 740 m distance from railway track	Nearby highway (The nearest highway should be at safe distance)	Duburi Chandikhol Express highway is about 5.3 km.	Nearby Industries	*Visa Steel Ltd. *Maithan Ispat Ltd. *Jindal Stainless Ltd. *Yajdani Steels Ltd. *Rohit Ferro Tech. Ltd. & MESCO Steels Ltd.	Water body (The nearest water body should be at safe distance)	Brahmani River is about 4 km distance	The site should be at least 1 km away from nearest school, College, Hospital, Archaeological monuments, market place and other sensitive areas	There is no school, college, Hospitals, Archaeological monuments, market place and other sensitive areas within one km. There is one Temple near 60 m distance from the siding.
Nearby habitation detail E.W.N.S. direction (The habitation should be at safe distance)	Jakhapura village is situated at North direction which is about 520 m distance from Railway track. Kendudhipi Village is situated at South West direction which is about 2 km distance from railway track. Rabana village is situated at West direction which is about 740 m distance from railway track											
Nearby highway (The nearest highway should be at safe distance)	Duburi Chandikhol Express highway is about 5.3 km.											
Nearby Industries	*Visa Steel Ltd. *Maithan Ispat Ltd. *Jindal Stainless Ltd. *Yajdani Steels Ltd. *Rohit Ferro Tech. Ltd. & MESCO Steels Ltd.											
Water body (The nearest water body should be at safe distance)	Brahmani River is about 4 km distance											
The site should be at least 1 km away from nearest school, College, Hospital, Archaeological monuments, market place and other sensitive areas	There is no school, college, Hospitals, Archaeological monuments, market place and other sensitive areas within one km. There is one Temple near 60 m distance from the siding.											
10.	Air Pollution Control practices to be followed.	<ol style="list-style-type: none"> 1. During visit it was observed that Railway authority has concreted the entire platform of about 700 m with 28 m width. 2. The railway has provided garland drain of about 500 m with two nos. of setting pit. 3. Water sprinklers have been provided which will be used during loading and unloading of minerals. The water sprinklers are connected 										

54

		<p>through water tankers.</p> <p>4. Reportedly during operation all pollution control norms to be followed.</p> <p>5. Boundary wall of about 200 m constructed towards west side of the railway siding.</p> <p>6. The approach road connecting to the railway siding is black topped.</p>
11	Quality of water used in KLD	For dust suppression 150 Kl will be used during loading and unloading activities.
12	Conclusion	<ol style="list-style-type: none"> 1. Water sprinkling facility along the stockyard area 2. It has also provided two water tanker for spray of water along the roads. 3. It has provided Tarpaulin to cover the minerals 4. It has provided black topped and concrete road for transportation of raw materials. 5. It has constructed boundary wall of the passenger movement area.
13	Recommendation	As the railway authority have been arranged the pollution control measures and also proposed for adopting more pollution control measures, and as District Collector has given a letter for allowing the railway siding for time being, so the railway siding may be considered for allowing loading and unloading of minerals.

Sd/-
AEE
S. Mohanty

Sd/-
AES
B.Marndi

Sd/-
DES
R.K.Mishra

Sd/-
RO
A.K.Mallick "

36. Thus, we find from the above that in their report the team recommended allowing loading and unloading of minerals as the Railway authority had arranged for the pollution control measures and had also proposed for adopting more pollution control measures. As already observed earlier, the Inspection team has also referred to the letter of the District Magistrate.

37. The Member Secretary, PCB, Odisha, by a communication No. 6163/Ind./Con. 6458 dated 04.04.2015 much to our astonishment, revoked the stoppage/closure order only by taking into consideration the action by the railway for compliance of the statutory provision. It is pertinent to note that closure order was issued by the Board to the railway siding unit as it was a 'red category' unit admittedly operating without consent from the Board and also that there were violations of pollution norms. Once a closure order was issued for want of consent to operate as one of the reasons, the unit could not have been allowed to operate before grant of consent after due consideration of their pending application therefor by following the due process. We find it difficult to comprehend as to how the State Pollution Control Board could have revoked its own closure order issued against a red category industry which was admittedly operating from the beginning in violation of the requirements under the Air Act, 1981, the Water Act 1974 and in non-compliance of the mandatory consent management. The reply affidavit filed by the PCB that "considering the report of the inspection team, closure order was revoked", clearly shows that the Chairman, PCB did not follow the consent management rules and allowed the Railway to undertake Loading Unloading activities even when it had not been granted consent to operate. Clearly, therefore, the decision of the Chairman, State PCB, is

undeniably in violation of the environmental norms and is to be seriously deprecated.

38. Having discussed on the facts and circumstances in detail, we are of the considered view that -

(a) East Coast Railway is undeniably guilty of violation of the mandatory statutory provisions having breached the Environmental Laws, particularly, the Water Act, 1974 and the Air Act, 1981 by operating their units illegally from 2011, after the revised guidelines had come into force, without consent to operate from the State Pollution Control Board and, for contributing to air and water pollution thereby degrading the environment.

(b) The District Magistrate, Jajpur, has misused his power in directing the Regional Officer, State Pollution Control Board, to allow loading/unloading and transportation of raw materials at the railway siding in the absence of consent to operate from the Board.

(c) The Chairman and Member Secretary, State Pollution Control Board have not functioned in accordance with the power vested on them under the Water Act, 1974 and the Air Act, 1981 in revoking closure order issued against a non-compliant Unit operating without consent of the Board and the Board acted in haste and under

pressure in allowing the unit to continue operating illegally without consent of the Board.

DIRECTIONS :

39. For the reasons stated above we direct as follows:-

I. (i) The Govt. of Odisha through the Chief Secretary, shall seek appropriate explanation from the District Magistrate, Jajpur, for his misconduct in interfering with the functioning of the State Pollution Control Board and take suitable penal action against him.

(ii) The Govt. of Odisha through the Chief Secretary to constitute a High Power Committee to enquire into the action of the Chairman and Member Secretary, PCB, who have been delegated by the Board vide order No. 9832/Ind-I-CON- MISC-306 dated 25.1.2008, in revoking the closure order and thereby allowing the Railway siding at Jakhapura to undertake the activities in the absence of consent to operate certificate of the Board and, recommend appropriate action against them to the Government.

(iii) The allegation of the applicant that VISA Steel has been contributing to air pollution and damage to village roads for transporting raw materials by uncovered vehicles has been opposed by VISA Steel, the respondent No. 5. From the

letter of the Station Manager, Jakhapura Railway station, it is revealed that many other companies have also engaged vehicles for transportation of raw materials. Besides, as per the affidavit of respondent No. 5, the Jajpur Cluster Development Activity maintains the road. The VCRs, issued by the traffic Department also do not indicate anything against VISA Steel. Therefore, we do not pass any order against respondent No. 5.

ii. (i) We find, and admittedly so, that the East-Coast Railway has committed breach of both the Water Act, 1974 and the Air Act, 1981 and contributed to air and water pollution in the area since last five years till the last inspection conducted by the Board on 25.3.2015. In all previous inspections by the Board, the Unit had been found in default in the adoption of pollution control measures. The applicant has also alleged pollution of environment and reduction in agriculture productivity due to siding activities of East Coast Railway which has not been opposed by either the PCB or by the railway. Because of railway-siding activities in the absence of valid consent to operate from the State Pollution control Board and also in the absence of regular monitoring by the Board, the ore dust emissions, which largely contain toxic heavy metals, exceeding the permissible norms are bound to cause environmental

imbalance affecting the primary productivity, soil fertility, water quality and health of the people in the locality.

Keeping these factors in mind, the Tribunal has to invoke the "Polluter Pays" principle. The source of pollution is obviously attributable to the operation of railway siding illegally for loading and unloading of minerals which has led to adverse impacts on environment and public health. Thus the East Coast Railway is liable to pay environmental compensation on the principle of "Polluter Pays".

"Polluter Pays" principle, which is an overarching principle, mandates the polluter to bear the cost of pollution, prevention, control and reduction measures. This principle is an integral component of sustainable development. The Apex Court of India in **Indian Council for Enviro-Legal Action –vs- Union of India**: (1996) 3 SCC, **Karnataka Industrial Area Development Board –vs- C. Kenchappa**: (2006) 6 SCC 371, **M.C.Mehta –vs- Union of India**: (2006) 3 SCC 399, has held that the "remediation of the damaged environment is a part of the process of sustainable development and as such the polluter is liable to pay the cost to the individual sufferer as well as the cost of reversing the damaged ecology."

Similarly in **Hindustan Coca Cola Beverages Pvt. Ltd.-vs- West Bengal**, it has been held that "it is no more *res integra*, with regard to the legal proposition, that a polluter is

bound to pay and eradicate the damage caused by him and restore the environment.

We may also refer to judgement dated 22.07.2013 in the case of **Manoj Mishra –vs- Union of India** decided by the Principal Bench of NGT in which the 'polluter pays' principle was applied while directing payment of compensation for dumping debris and construction wastes on the bank of the river Yamuna.

(ii) Therefore, we direct that East Coast Railway Division at Chandrasekharapur, Bhubaneswar, under whose authority the illegal railway siding was in operation at Jakhapura railway station, to pay environmental compensation of Rs. 50.00 lakhs @ Rs. 10.00 lakhs per annum for the five years of violation of Environmental norms, which shall be paid within a period of two months to the District Magistrate, Jajpur, who will spend Rs. 25.00 lakhs on infrastructure development of Primary Health Centre (PHC) at Jakhapura towards the cost of building, laboratory and instruments and the remaining Rs. 25.0 lakhs towards improving the environment in and around the railway siding and, for sanitation, supply of drinking water, etc., in the affected village.

(iii) Besides this, we also direct the East-Coast Railway to pay Rs. 1.0 lakh cost to the Applicant, Shri Aswini

Kumar Dhal, who had filed the application seeking to restrain the East Coast Railway from allegedly emitting harmful air pollutants in violation of environmental norms.

(iv) The East-Coast Railway, Bhubaneswar, the District Magistrate, Jajpur, the State Pollution Control Board, Bhubaneswar and the Chief Secretary, Govt. of Odisha are directed to file their respective affidavit on compliance of this order within three months in the Registry of the Tribunal.

(v) It is further directed that the railway siding at Jakhapura railway station shall remain closed till consent to operate is granted by the Board after being fully satisfied that all pollution control measures are in place.

40. With the above directions this application stands disposed off.

.....
Justice S.P.Wangdi (JM)

.....
Prof.(Dr.) P.C.Mishra(EM)

Kolkata

Dated : 25th May, 2016

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46

दिनांक: 01.10.2022 62

Annexure R-4

सेवा में,

श्रीमान क्षेत्रीय अधिकारी
(उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड)
जे-1, ज्ञान सरोवर कॉलोनी, रामघाट रोड, अलीगढ़

विषय :- मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित ओ.ए.न. - 537/2022 श्री मुकेश चौहान बनाम उ० प्र० राज्य में पारित आदेश दिनांक 05.09.2022 के सम्बन्ध में।

संदर्भ :- पत्रांक 1994/AJ-397/2022 दिनांक 26.09.22 जो कि दिनांक 30.09.2022 को प्राप्त हुआ है।

महोदय,

उपरोक्त विषयक एवं पत्र के संदर्भ में, हम आपके समक्ष, आपके द्वारा दिनांक 26.09.2022 को जारी पत्र जो कि मा० राष्ट्रीय हरित अधिकरण नई दिल्ली में योजित ओ.ए.न.-537 / 2022 श्री मुकेश चौहान बनाम उ० प्र० राज्य में पारित आदेश दिनांक 05.09.2022 के साथ एक शिकायती पत्र के संदर्भ में दिया गया है तथा शिकायती पत्र में उल्लेखित है कि ग्राम -साथा के नजदीक हरदुआगंज रेलवे स्टेशन है। जे०के० कम्पनी व अन्य कम्पनियों द्वारा सीमेंट बनाने के लिए क्लिंकर मंगाया जाता है स्टेशन पर जब क्लिंकर खलते / मरते समय आंधी का वातावरण बन जाता है। यह क्लिंकर रासायनिक होने के कारण पशु पक्षियों एवं जनता के लिए हानिकारक है एवं इकाईयों द्वारा किन - किन एजेन्सी के माध्यम से हरदुआगंज रेलवे स्टेशन से क्लिंकर मंगाया जा रहा है उन एजेन्सियों के द्वारा क्या राज्य बोर्ड से सहमति (जल / वायु) प्राप्त की गयी है एवं एजेन्सी द्वारा धूल के नियंत्रण हेतु किया उपाय किये गये है एवं उक्त एजेन्सी कब से कार्यरत है।

श्रीमान जी को अवगत कराना चाहते हैं कि हरदुआगंज रेलवे साइडिंग भारतीय रेलवे का परिसर है जिसमें मंगलम सीमेंट लिमिटेड सहित अन्य कम्पनियों को क्लिंकर अनलोडिंग व लोडिंग की रेलवे द्वारा अनुमति प्रदान की गई है जिसके अंतर्गत क्लिंकर अनलोडिंग व लोडिंग, रेलवे के दिशानिर्देशों के अनुसार किया जा रही है।

कम्पनी मंगलम सीमेंट लिमिटेड द्वारा हरदुआगंज रेलवे स्टेशन से क्लिंकर अनलोडिंग / लोडिंग व शिफ्टिंग का कॉन्ट्रैक्ट M/s. P & P Exim PVT LTD, Sootmill Choraha Aligarh -202001

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Rgd, Office & Works : PO - Aditya Nagar, Morak, Distt. Kota-326520 (Raj.)
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Call : 07459-232150
Website : www.mangalamcement.com
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(U.P) को दिया है एवं एजेन्सी द्वारा क्लिकर अनलोडिंग / लोडिंग के समय होने वाले वायु प्रदूषण को नियंत्रण करने हेतु नियमित रूप से सड़को व अन्य सम्भावित क्षेत्रों में पानी का छिड़काव सुचारु रूप से किया जा रहा है एवं शिफ्टिंग के समय क्लिकर को तिरपाल द्वारा ढक कर लाया जाता है आगे के लिए भी सुनिश्चित किया गया है।

M/s. P & P Exim PVT LTD , Sootmill Choraha Aligarh -202001 (U.P) द्वारा पिछले छः वर्ष से हरदुआगंज रेलवे स्टेशन से क्लिकर अनलोडिंग / लोडिंग व शिफ्टिंग का कार्य हरदुआगंज रेलवे के दिशानिर्देशों के अनुसार की जा रही है।

उपरोक्त को ध्यान में रखते हुए हमारे इकाई मंगलम सीमेंट लिमिटेड द्वारा रेलवे साइडिंग पर 101 पौधों का सघन वृक्षारोपण किया जाना सुनिश्चित किया गया है।

उपरोक्त संदर्भ में यह सुनिश्चित करते हैं कि मंगलम सीमेंट लिमिटेड के M/s. P & P Exim PVT LTD , Sootmill Choraha Aligarh -202001 (U.P) द्वारा हरदुआगंज रेलवे अनलोडिंग / लोडिंग साइडिंग पर वायु उत्सर्जन रोकने के लिए सभी उपाए किये हैं और भविष्य में भी आपके सुझाव के अनुसार कार्य करते रहेंगे आशा करते हैं कि उपरोक्त सभी बिंदुओं की अनुपालना की गई है।

भवदिय,
कृते मंगलम सीमेंट लिमिटेड,

(अधिकृत हस्ताक्षर)

प्रतिलिप:-

1. मुख्य पर्यावरण अधिकारी (वृत्त - 4), उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड, लखनऊ को सूचनार्थ सादर प्रेषित।

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दिनांक : 30.12.2022

64

Annexure R-5

सेवा में
श्रीमान क्षेत्रीय अधिकारी
(उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड)
जे -1 ज्ञान सरोवर कॉलोनी, रामघाट रोड, अलीगढ़

विषय :- मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या- 537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेशदिनांक 05.09.2022 के अनुपालन के सम्बन्ध में।

सन्दर्भ :- पत्रांक 2256/OA-253/2022 दिनांक 14.11.2022 जो कि दिनांक 16.12.2022 को प्राप्त हुआ है।

महोदय,
उपरोक्त विषयक एवं पत्र के सन्दर्भ में हम आपके समक्ष आपके द्वारा दिनांक 14.12.2022 को जारी पत्र जो कि मा०राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या -537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किये गये संयुक्त निरीक्षण दिनांक 10.11.2022 के सन्दर्भ में दिया गया है एवं संयुक्त निरीक्षण आख्या में दी गयी Recommendation, Concluding Remark के अनुसार आवश्यक कार्यवाही हेतु निर्देशित किया गया है।

श्रीमान जी को अवगत कराना चाहते हैं कि हरदुआगंज रेलवे साइडिंग भारतीय रेलवे का परिसर है जिसमें मंगलम सीमेंट लिमिटेड सहित अन्य कम्पनियों को क्लिंकर अनलोडिंग व लोडिंग की रेलवे द्वारा अनुमति प्रदान की गई है जिसके अंतर्गत क्लिंकर अनलोडिंग व लोडिंग रेलवे के दिशानिर्देशों के अनुसार की जा रही है।

मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या -537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेशदिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किये गये संयुक्त निरीक्षण आख्या में दी गयी Observation & Recommendation के अनुसार आवश्यक कार्यवाही निम्नानुसार कर रहे हैं :-

Sr. No.	Observations & Recommendation	MCL Reply
Observations		
1	The clinker was unloaded manually from wagons at approx .650 meter -long line no. 14 of Harduaganj railway station which is further loaded on trucks through JCB and transported to (02) cement plant namely M/s J. K. Cement Limited and M/s Mangalam Cement Limited located at approx 1.5 km and approx 6 km from the Harduaganj railway station respectively.	Harduaganj Siding is owned by Indian Railways, its operations are under their guidelines. To ensure fulfillment of all respective applicable rules and regulation updated time by time by Railways we have given contract to "M/s P&P Exim Pvt. Ltd.", along with handling and transfer clinker from Siding to our plant.
	During visit applicant (Mukesh kumar Chauhan) was connected telephonically to associate with joint committee at railway site but applicant had not appeared at railway site.	Not Applicable (Applicable Only for Applicant-Mukesh Kumar Chauhan)
	The processing capacity of cement plant namely M/s. J K Cement Limited and M/s. Mangalam cement limited are 1.5 million ton per year and 1.2 million ton per year	Point Noted

Recd
16/1/23
अ.सं. 13

Aligarh Grinding Unit
Central Marketing Office
Regd. Office & Works
Tal 07459-232812, Fax : 07459-232158, Email : marketing@mangalamcement.com

K-1, CDF Complex, Anoop Shahr Road, Chherat Geon, Aligarh - 202122 (U.P.)
2nd Floor, Geegarth Tower, Hawa Sadak, Jaipur-302006 (Raj.)
P.O. -Aditya Nagar, Morak, Distt. Kota-326920 (Raj.)
CIN : L26943RU1976PLC001705
GSTIN : 09AABC6602Q1Z2
Website : www.mangalamcement.com
E-mail : aligarhgrinding@mangalamcement.com

Page-01 of 04

	respectively.	
4	During visit, the platform area near line no. 14 was found unpaved, which is also cause of fugitive emission during transportation.	Maintenances of station area are under Indian Railways control. We have deputed a water Tanker with tractor & Fogger machine (Under our contractor supervision) at site to assure the dust suppression.
5	Fugitive emission was observed while unloading and loading of clinker at station.	We have deputed a water Tanker with tractor & Fogger machine Fogger machine (Under our contractor supervision) at site to assure the dust suppression.
6	No worker was found using proper protective equipment (PPE's) while loading and unloading activities	Contractor has distributed PPE's, to be used by their workmen while working. HEMM deputed at site are having AC cabin for operator while working.
7	During visit it is observed that one antismog gun is available for the dust suppression which was found non operational.	Contractor has been instructed to use Fogger Machine during clinker handling at site.
8	During visit a water tanker was found operational for sprinkling of water on road of railway siding. Water was extracted through a pumping set from the bore well. No flow meter was installed at bore well and no permission was obtained for the same for extraction of ground water.	Bore well is under the Railway Jurisdiction and we have very limited access to it.
9	During visit it is observed that covering of green color clothes of height approx 20 feet and length approx 300 meters was placed at one side of station as temporary arrangement for control of dust emission covering of green color clothes for other side of station was under progress.	Green curtains have been provided on both sides.
10	No permanent system for dust suppression was observed at railway station. Existing system for the fugitive emission control is observed to be inadequate and improper.	Harduaganj Siding is owned by Indian Railways. We have deputed a water Tanker with tractor & Fogger machine (Under our contractor supervision) at site for dust suppression.
11	As per specific condition no. 15 of consent issued to M/s J. K. Cement Limited under section 21/22 of Air (Prevention and control of pollution Act, 1981 Industry shall focus on the different un-assessed source of air pollution in bagging plant and accordingly make a pucca arrangement to control the cement dust generating from loading of trucks/railway wagon. Copy of consent issued to both the cement plant is annexed as Annexure-2	Point noted

66

12	Air ambient quality stations have been installed at two (02) locations near the station and Satha village as per availability of power connection. Sample is analyzed by UPPCB test result is as below:	Point noted.																													
	<table border="1"> <thead> <tr> <th colspan="3">Location 1 Village Satha, Tehsil Koli, District Aligarh</th> </tr> <tr> <th>Parameters</th> <th>24 Hours average value ($\mu\text{g}/\text{m}^3$)</th> <th>Prescribed standards ($\mu\text{g}/\text{m}^3$)</th> </tr> </thead> <tbody> <tr> <td>PM-10</td> <td>703.86</td> <td>250</td> </tr> <tr> <td>SO₂</td> <td>13.3</td> <td>80</td> </tr> <tr> <td>NO₂</td> <td>28.2</td> <td>80</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th colspan="3">Location 2 Near Harduaganj Railway station, Tehsil Koli, District Aligarh</th> </tr> <tr> <th>Parameters</th> <th>24 Hours average value ($\mu\text{g}/\text{m}^3$)</th> <th>Prescribed standards ($\mu\text{g}/\text{m}^3$)</th> </tr> </thead> <tbody> <tr> <td>PM-10</td> <td>174.21</td> <td>250</td> </tr> <tr> <td>SO₂</td> <td>14.3</td> <td>80</td> </tr> <tr> <td>NO₂</td> <td>25.2</td> <td>80</td> </tr> </tbody> </table>	Location 1 Village Satha, Tehsil Koli, District Aligarh			Parameters	24 Hours average value ($\mu\text{g}/\text{m}^3$)	Prescribed standards ($\mu\text{g}/\text{m}^3$)	PM-10	703.86	250	SO ₂	13.3	80	NO ₂	28.2	80	Location 2 Near Harduaganj Railway station, Tehsil Koli, District Aligarh			Parameters	24 Hours average value ($\mu\text{g}/\text{m}^3$)	Prescribed standards ($\mu\text{g}/\text{m}^3$)	PM-10	174.21	250	SO ₂	14.3	80	NO ₂	25.2	80
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13	It is evident from the above result PM-10 is not meeting with prescribed limit of ambient air quality in both the locations. Test reports is annexed as Annexure-3	Point Noted																													

Sr. No	Recommendation	MCL Reply
1	Railway authority in cooperation with concerned cement industry must develop proper and permanent facility to control and suppress the fugitive dust emission generation while loading, un-loading and transportation of clinker at line no. 14 of Harduaganj railway station. An action plan should be submitted in this regard to SPCB.	Harduaganj Siding is owned by Indian Railways, its operations are under their guidelines. To ensure fulfillment of all respective applicable rules and regulation updated time by time by Railways we have given contract to "M/s P&P Exim- Pvt. Ltd.", along with handling and transfer clinker from Siding to our plant.
2	The platform area near the line no. 14 should be paved to avoid fugitive emission while movement of trucks.	Harduaganj Siding is owned by Indian Railways, We have deputed a water Tanker with tractor & Fogger machine (Under our contractor supervision) at site to assure the dust suppression.
3	Regular water sprinkling should be done on the roads and platform area to suppress dust.	We have deputed a water Tanker with tractor & Fogger machine (Under our contractor supervision) at site to assure the dust suppression.
4	Industries/ railway authority should carry out monthly ambient air quality monitoring near station area and submit compliance report to UPPCB.	Point noted.
5	Industries should comply specific condition no. 15 of consent under section 21/22 of Air (Prevention and control of pollution) Act, 1981 i.e. Industry shall focus on the different un-assessed source of air pollution in bagging plant and accordingly make a pucca arrangement to	Industry has implemented all the best available measures to control the dust from loading & unloading which are given as below : <ul style="list-style-type: none"> All raw materials are being stored in covered yard & Silos and belt conveyors have been covered by GI sheet.

	control cement dust generating from loading of trucks/railway wagons.	<ul style="list-style-type: none"> • We have installed Bag Filters at all transfer points of raw material handling for control fugitive dust emission. • All dust collected in bag filters have been totally recycled and being reused in the plant process. • Water sprinkling is being done on plant roads. • All roads are paved inside the plant. • Using sweeping machine to clean and collect the dust on plant roads.
6	Assessment of environmental compensation due to loading and unloading of clinker at railway station should be carried out by SPCB and accordingly environmental compensation should be imposed.	<p>Harduaganj Siding is owned by Indian Railways, its operations are under their guidelines.</p> <p>Although we are already doing best available measures (to cover the loss at site) at site like Tree plantation, Green curtain, water sprinkling Anti fog machine etc. at Harduaganj railway station.</p> <p>Hence, imposing environmental compensation should not be considered in this case.</p>
7	Permission from CGWA for extraction of ground water should be taken as per rule.	This siding is under the Railway Judriction.

67

उपरोक्त सन्दर्भ में श्रीमान जी से निवेदन है कि हमारी इकाई मंगलम सीमेंट लिमिटेड द्वारा उपरोक्त सभी बिन्दुओं का क्रमबद्ध स्वीकारण दिया है और भविष्य में भी आपके सुझाव के अनुसार कार्य करते रहेंगे।

भवदीय

कृते मंगलम सीमेंट लिमिटेड, अलीगढ़

(अधिकृत हस्ताक्षर)

प्रतिलिपि -

1. मुख्य पर्यावरण अधिकारी (वृत्त -4), उ० प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ

Nandini

Page- 04 of 04

TRUE COPY

मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ.ए. संख्या-537/2022 मुकेश कुमार चौहान बनाम स्टे ऑफ यू.पी. में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित संयुक्त कमेटी द्वारा शिकायती स्थल का निरीक्षण दिनांक 10.11.2022 को किया गया। निरीक्षणोपरान्त प्राप्त प्रतिउत्तर के सन्दर्भ में निरीक्षण आख्या।

Annexure R-6

68

कृपया उपरोक्त विषयक के सम्बन्ध में मै० जे०के० सीमेन्ट लि०, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़, मै० मंगलम सीमेन्ट, सी०डी०एफ० कॉम्प्लेक्स, छेरत, अनूपशहर रोड, तहसील-कोल, जनपद-अलीगढ़, मै० विजन नेक्स्ट रोड लाइन, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ एवं मै० पी एण्ड पी एकिजम प्रा०लि०, सूतमिल चौराहा, जनपद-अलीगढ़ को इस कार्यालय के पत्र संख्या-2256 दिनांक 14.12.2022 के माध्यम से संयुक्त निरीक्षण आख्या दिनांक 10.11.2022 को पत्र के साथ संलग्न कर प्रेषित की गयी थी। मै० जे०के० सीमेन्ट लि०, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ एवं मै० विजन नेक्स्ट रोड लाइन, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ द्वारा अपना प्रतिउत्तर कार्यालय में दिनांक 27.12.2022 एवं दिनांक 05.01.2023 को प्राप्त कराया गया है। प्राप्त प्रतिउत्तर के सन्दर्भ में सन्दर्भित स्थल का निरीक्षण इस कार्यालय द्वारा दिनांक 09.01.2023 को किया गया। निरीक्षण के समय मै० विजन नेक्स्ट रोड लाइन, ग्राम-साथा, कासिमपुर रोड, तहसील-कोल, जनपद-अलीगढ़ में प्रतिनिधि के रूप में श्री उपेन्द्र कुमार, डायरेक्टर उपस्थित मिले। विस्तृत निरीक्षण आख्या निम्नवत् है-

1. निरीक्षण के समय रेलवे स्टेशन, हरदुआगंज रेलवे साइडिंग के लाइन नं०-14 के किनारे स्थित लोडिंग/अनलोडिंग एरिया में 02नग टैंकर के माध्यम से वाटर स्प्रेकलिंग का कार्य होता हुआ पाया गया।
2. निरीक्षण के समय लोडिंग/अनलोडिंग साइट पर 02नग पोर्टेबल एन्टी स्मोगन स्थित पाये गये एवं दोनों एन्टी स्मोगन से जल छिड़काव होता हुआ पाया गया। निरीक्षण के समय उपस्थित प्रतिनिधि मै० विजन नेक्स्ट रोड लाइन द्वारा अवगत कराया गया कि एन्टी स्मोगन मशीन फर्म द्वारा क्रय किया गया है। टैक्स इन्वाइस की छायाप्रति संलग्न है।
3. निरीक्षण के समय उपस्थित प्रतिनिधि मै० विजन नेक्स्ट रोड लाइन द्वारा मै० इन्चायरो टैंक सर्विसेस, प्लॉट संख्या-132, एस.एस. ऑफ जी०टी० रोड, औद्योगिक क्षेत्र, गाजियाबाद द्वारा हरदुआगंज रेलवे स्टेशन एवं ग्राम-साथा का परिवेशीय वायु गुणता का अनुश्रवण लोडिंग एवं अनलोडिंग दोनों स्थितियों में कराया गया है। छायाप्रति संलग्न है।
4. निरीक्षण के समय रेलवे स्टेशन हरदुआगंज के रेलवे साइडिंग एवं वाहनों के आवागमन हेतु मार्ग कच्चा होने के कारण डस्ट/धूल उड़ना स्वाभाविक है। निरीक्षण के समय उपस्थित प्रतिनिधि मै० विजन नेक्स्ट रोड लाइन द्वारा अवगत कराया गया कि उक्त रास्ता एवं रेलवे साइडिंग को पक्का बनाने हेतु रेलवे द्वारा कार्य किया जाना है।
5. निरीक्षण के समय हरदुआगंज रेलवे साइडिंग पर वाहनों के आवागमन एवं लोडिंग/अनलोडिंग से जनित फिजियूटिव डस्ट के नियंत्रण हेतु रेलवे स्टेशन की पूरब एवं पश्चिम दिशा साइट से लगभग-20 फीट ऊँची 600 मीटर दोनों तरफ लम्बी अस्थाई ग्रीन नेट से बाउण्ड्री से कवर्ड किया गया (फोटोग्राफ संलग्न है)।
6. निरीक्षण के समय मालगाड़ी/रैक मौजूद न होने के कारण अनलोडिंग का कार्य होता हुआ नहीं पाया गया। किन्तु लोडिंग कार्य हो रहा था। निरीक्षण के समय लोडिंग के दौरान बर्कर द्वारा उपयुक्त पी०पी०ई० का प्रयोग होता हुआ नहीं पाया गया।
7. निरीक्षण के समय रेलवे साइडिंग पर स्थित बोरवेल पर पम्प सेट स्थापित पायी गयी। उक्त बोरवेल से पानी दोहन की अनुमति जिला स्तरीय भूगर्भ जल प्राधिकरण अलीगढ़ से प्राप्त किया गया है अथवा नहीं के सम्बन्ध में कोई अभिलेख प्रस्तुत नहीं किया गया है।
8. निरीक्षण के समय उपस्थित मै० विजन नेक्स्ट रोड लाइन द्वारा अवगत कराया गया कि रेलवे साइडिंग हरदुआगंज पर स्थित उक्त बोरवेल रेलवे का है। जल दोहन की अनुमति रेलवे को प्राप्त करनी है एवं हमारे द्वारा पानी के छिड़काव हेतु मै० जे.के.सीमेन्ट उद्योग से पानी के टैंकर भरकर लाया जाता है।

आख्या आपके अवलोकनार्थक एवं अग्रिम आवश्यक कार्यवाही हेतु सादर प्रेषित।


(उपेन्द्र प्रसाद)
अवर अभियन्ता


(अजय कुमार)
सह०पर्या०अभि०


(डॉ० जे०के० सिंह)
क्षेत्रीय अधिकारी (प्र०)
(डॉ० जे०पी० सिंह)
क्षेत्रीय अधिकारी (प्र०)
उ०प्र० प्रदूषण नियंत्रण बोर्ड,
अलीगढ़

Pending OA No.-537 / 2022 Mukesh Kumar Chauhan vs. State of U.P. in Hon'ble National Green Tribunal, New Delhi. The inspection of the complaint site was done on 10.11.2022 by the joint committee formed in compliance of the order dated 05.09.2022 passed in Inspection report with reference to the reply received after the inspections.

Regarding the above subject, M/ s J.K. Cement Ltd. Village Satha, Kasimpur Road, Tehsil- Coil, District Aligarh, M/ s Mangalam Cement, CDF Complex, Cherath, Anupsahar Road, Tehsil- Col, District Aligarh, M/ s Vision Next Road Line, Village- Satha, Kasimpur Road, Tehsil- Koil, District Aligarh and M/ s P&P Exim Pvt. Ltd, Sutmil Chauraha, District Aligarh, through this office's letter no.- 2256 dated 14.12.2022 along with the joint inspection report dated 10.11.2022 Sent attached. M/ s J.K. Cement Ltd. Village Satha, Kasimpur Road, Tehsil- Koil, District Aligarh and M/ s Vision Next Road Line, Village- Satha, Kasimpur Road, Tehsil- Koil, District Aligarh in their reply office dated 27.12.2022 and dated 05.01.2023 has been received. With reference to the reply received, the inspection of the referenced site was done by this office on 09.01.2023. At the time of inspection Mr. Upendra as a representative in M/ s Vision Next Road Line, Village- Satha, Kasimpur Road, Tehsil- Koil, District Aligarh. Shri Upendra Kumar, Director was present. The detailed inspection report is as follows-

1. At the time of inspection, the railway station was situated on the side line no. 0-14 of Harduaganj railway siding. Water sprinkling work was found to be done through 02 tankers in the loading/ unloading area.
2. At the time of inspection, two nos. of portable anti smoggun were found located at the loading/ unloading site and water sprinkling was found to be done by both of the anti smoggun. The representative present at the time of inspection was informed by Mr. Vision Next Road Line that Anti Smogon Machine has been purchased by the firm. Photocopy of tax invoice is attached.
3. At the time of inspection M/ s Vision Next Road Line No-132, S.S. Off GT Road, Industrial Area, Ghaziabad by Harduaganj Railway Station and Monitoring of ambient air quality of Village- Satha was done in both loading and unloading conditions. Is Photocopy is attached.
4. At the time of inspection, it is natural for dust/ dust to fly due to the railway siding of Harduaganj railway station and the road being unpaved for vehicular traffic. The representative present at the time of inspection was informed by M/ s Vision Next Road Line that work has to be done by the Railways to make the said road and railway siding .
- 5 Generated by the movement of vehicles and loading / unloading on Harduaganj railway siding at the time of inspection to control the fugitive dust, the eastern and western sides of the railway station were

covered from the boundary with a long temporary green net about 20 feet high 600 meters on both sides (Photograph attached).

- 6 Due to non- availability of goods train/ rack at the time of inspection, the work of unloading could not be done. Gone. But the loading work was going on. At the time of inspection, suitable PPE was not found to be used by the worker during loading.
- 7 At the time of inspection, pump set was found installed on the borewell located on the railway siding. From the said borewell no record has been presented regarding whether the permission for water exploitation has been obtained from the District Level Ground Water Authority, Aligarh or not.
- 8 It was informed by M/ s Vision Next Road Line, present at the time of inspection, that the said borewell located at Harduaganj railway siding belongs to the Railways. Railway must get the permission for water harvesting and M/s J.K. Cement Water tankers are brought from J K cement industry. The report is sent with respect for your perusal and further necessary action.

SD/
(Upendra Prasad)
Sr. Engineer

SD/-
(Ajay Kumar)
Addl. Environment Engineer

SD/-
(Dr. J P Singh)
Regional Officer
UP PCB, Aligarh

J.K. Cement Report


TRUE COPY

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 537/2022**

IN THE MATTER OF:

Mukesh Kumar Chouhan

.... APPELLANT

VERSUS

State of U.P.

.... RESPONDENT

VAKALATNAMA

Know all to whom these presents shall come that I,

Respondent No. 6 M/s Mangalam Cement in the above captioned case do hereby appoint

**KESHAV GARG
ADVOCATE
A-22, GROUND FLOOR, DEFENCE COLONY,
NEW DELHI-110024
MOBILE NO 7999999240
D/5270/2022**

Advocates, to be my/ our true and lawful attorney (s), in the matter noted above, to do all the following acts, deeds and things, or any of them, (jointly and severally) and also ratify anything already done on our behalf that is to say: -

1. To sign, verify and present and send notices, replies rejoinders, pleadings, appeals, cross-objections or petitions for execution, review, revision, other petitions or affidavit or other documents as shall be deemed necessary or advisable for the prosecution of the case or in relation thereto in all its stages.
2. To appear, act, and plead in the above-mentioned case in any court or tribunal etc, in which the same be heard or tried in the 1st instance or in appeal or review or revision or execution or in any other stage of its progress until its final decision.
3. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise to or in any manner relating to the said case.
4. To receive documents, papers, records, orders etc. and to do all other acts all things, which may be necessary or proper to be done for the progress and in all course of the prosecution of the said case.
5. To employ any other legal practitioner, advocate or consultant authorizing him to exercise the power and authority hereby conferred on the Advocate (s) whenever he/they may think fit to do so.

73

And I/We hereby agree that whatever the Advocate (s) or his/ there substitute shall do in the premises shall be binding on me in all intents and purposes just as if it would have been done by me.

And I/We hereby agree not to hold the Advocate (s) or his/their substitute responsible for the said case in consequence of his absence from the court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the free agreed by me/ us to be paid to the Advocate (s) remaining unpaid he/they shall be entitled to withdraw from the prosecution of the said case, or not to appear until the same is paid.

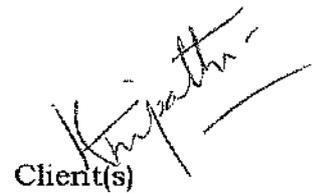
In witness whereof I/We hereunto set my/our hand to these presents the contents of which have been explained to and understood by me/us.

Date: 27 January 2023

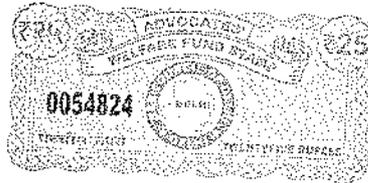
Advocate (s)



Keshav Garg
D/2570/2022
7999999240



Client(s)



ANNEXURE R-3

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...Applicant

VERSUS

State of U.P. & Ors.

...Respondents

INDEX

S. No.	Particulars	Page No.
1.	ACTION TAKEN REPORT ON BEHALF OF RESPONDENT NO. 6 IN COMPLIANCE WITH ORDER DATED 20.02.2023, IN O.A. NO. 537 OF 2022 PASSED BY THIS HON'BLE TRIBUNAL.	1-14
2.	ANNEXURE -1 Copy of the latest Photographs of the site.	15-19
3.	Annexure- 2 Copy of monthly compliance reports submitted to UPPCB (March, 2023 and April 2023)	20-23

Place: New Delhi

Date: 20/05/2023

RESPONDENT No. 6 THOROUGH

Keshav Garg

ADVOCATE

D-190, Second Floor,

DEFENCE COLONY,

NEW DELHI-110024

PHONE: +91 7999999240

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...Applicant

VERSUS

State of U.P. & Ors.

...Respondents

ACTION TAKEN REPORT ON BEHALF OF RESPONDENT NO.

6 IN COMPLIANCE WITH ORDER DATED 20.02.2023, IN O.A.

NO. 537 OF 2022 PASSED BY THE HON'BLE NATIONAL GREEN

TRIBUNAL.

MOST RESPECTFULLY SHOWETH

1. This Action Taken Report is filed on behalf of the Respondent No. 6, Project Proponent i.e. M/s Mangalam Cement Ltd. in furtherance of the order dated 20.02.2023 of the Hon'ble National Green Tribunal in the matter O.A. No. 537 of 2022.
2. It is respectfully submitted that in compliance with the order of the Hon'ble National Green Tribunal in the matter O.A. 537 of 2022

dated 05.09.2022, the Joint Committee was directed to send copy of its report to the concerned Project Proponents and in compliance of the above-said order, copies of the reports of the Joint Committee were sent to all the Project Proponent and copy of report was served on the Railways through Station Superintendent, Harduaganj Railway Station, Harduaganj, District Aligarh, Uttar Pradesh. No objections to the reports of the Joint Committee were filed on behalf of the Project Proponent, particularly, the DRM, North-Central Railway Zone, Prayagraj Division, Uttar Pradesh.

3. In view of the above, the Hon'ble National Green Tribunal vide its order dated 20.02.2022 directed the Project Proponents, including the DRM, North-Central Railway Zone, Prayagraj Division, Uttar Pradesh to take appropriate steps for implementation of the recommendations made by the Joint Committee and file their Action Taken Reports within three months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.
4. In compliance with the Hon'ble National Green Tribunal's order dated 20.02.2022, the following Actions have been taken against the observation/ recommendation of the Joint Committee:

S. No.	Observation/ Recommendation in letter dated 14.12.2022	Compliance Status as on 15.05.2023
1.	The clinker was unloaded manually from wagons at .650-meter-long line no. 14 of Harduaganj railway station which is further on trucks through JCB and transported to (02) cement plant namely M/s. JK Cement Limited and M/s. Mangalam Cement Limited located at approx. 1.5 km and approx. 6 km from the Harduaganj railway station respectively.	Harduaganj Siding is owned by Indian Railways, its operation are under their guidelines. To ensure fulfilment of all respective applicable rules and regulations updated time by time by Railways we have given contract to M/s P&P Exim Pvt. Ltd.”, along with handling and transfer clinker from Siding to our plant.
2.	During visit, applicant was connected telephonically to associate with joint committee	N/A

	at railway site but applicant had not appeared at railway site.	
3.	The processing capacity of cement plant M/s. JK Cement Limited and M/s. Mangalam Cement Limited are 1.5 million ton per year and 1.2 million ton per years respectively.	The point is a statement of fact.
4.	During visit, the platform near line no. 14 was found unpaved, which is also cause of fugitive emission during transportation.	Maintenances of the station area are under Indian Railway's control. However, water tanker along with tractor and fogger machine (under contractor's supervision) have been deputed at the site to assure the dust is suppressed. Photographs has been attached as Annexure -1

5.	Fugitive emission was observed while unloading and loading of clinker at station.	Water tanker along with tractor and fogger machine (under our contractor's supervision) have been deputed at the site to assure the dust is suppressed. Photographs has been attached as Annexure -1
6.	No worker was found using Proper Protective Equipment (PPEs) while loading and unloading activity.	The contractor has distributed PPEs, to be used by their workmen while working.
7.	During visit, it is observed that one antismog gun is available for dust suppression which was found non- operational.	Proper instructions were given to the contractor to use the fogger machine during clinker handling at the site and the same has been complied with.
8.	During visit, a water tanker was found operational for sprinkling	Borewell is under the Railway's jurisdiction and the

	of water on road of railway siding. Water was extracted through a pumping set from the bore well. No flowmeter was installed at bore well and no permission was obtained for extraction of groundwater.	project proponent has very limited access to the same.
9.	During visit, it is observed that covering of green color cloths of height approx. 20 feet and length approx. 300 meter was placed at one side of station as temporary arrangement for control of dust emission. Covering of green color cloths for other side of station was under progress.	Old green curtains were damaged due to heavy wind, therefore new green curtains are being installed. Photographs has been attached as Annexure -1
10.	No permanent system for dust suppression was observed at railway station. Existing system	Water tank with tractor and fogger machine (under the supervision of the contractor)

	for fugitive emission under control is observed to be inadequate and improper.	has been deployed at the site for dust suppression.
11.	As per specific condition no. 15 of consent issued to M/s. JK Cement Limited under section 21/22 of Air (Prevention and control of Pollution) Act, 1901, "Industry shall focus on the different un-assessed source of air pollution in bagging plant and accordingly make a pucca arrangement to control cement dust generating from loading of trucks/ railway wagons. Copy of consent is issued to both the Cement plant.	The appropriate arrangements are being made in consultation with the contractor.
12.	Ambient air quality stations have been Installed at two (02) locations near station and Satha	Last month Ambient Air Quality Monitoring was carried out by NABL

	<p>village as per availability of power connection. Sample is analyzed by UPPCB test result is as below:</p>	<p>Accredited and CPCB approved lab M/s Vibrant Techno lab Pvt. Ltd. Jaipur.</p>																																
<table border="1"> <tr> <td colspan="3" data-bbox="472 611 911 846"> <p align="center">Location – 1 Village Satha, Tehsil Koli, District - Aligarh</p> </td> </tr> <tr> <td data-bbox="472 846 634 1329">Parameters</td> <td data-bbox="634 846 760 1329">24 Hours average value (ug/m³)</td> <td data-bbox="760 846 911 1329">Prescribed</td> </tr> <tr> <td data-bbox="472 1329 634 1413">PM10</td> <td data-bbox="634 1329 760 1413">165.99</td> <td data-bbox="760 1329 911 1413">100</td> </tr> <tr> <td data-bbox="472 1413 634 1497">S02</td> <td data-bbox="634 1413 760 1497">19.3</td> <td data-bbox="760 1413 911 1497">80</td> </tr> <tr> <td data-bbox="472 1497 634 1577">NO2</td> <td data-bbox="634 1497 760 1577">26.8</td> <td data-bbox="760 1497 911 1577">80</td> </tr> </table>	<p align="center">Location – 1 Village Satha, Tehsil Koli, District - Aligarh</p>			Parameters	24 Hours average value (ug/m ³)	Prescribed	PM10	165.99	100	S02	19.3	80	NO2	26.8	80	<table border="1"> <tr> <td colspan="3" data-bbox="943 527 1351 684"> <p align="center">Harduaganj Railway Station</p> </td> </tr> <tr> <td data-bbox="943 684 1081 1087">Parameter</td> <td data-bbox="1081 684 1219 1087">Results (µg/m³)</td> <td data-bbox="1219 684 1351 1087">NAAQS 2009 (µg/m³)</td> </tr> <tr> <td data-bbox="943 1087 1081 1171">PM-10</td> <td data-bbox="1081 1087 1219 1171">92</td> <td data-bbox="1219 1087 1351 1171">100</td> </tr> <tr> <td data-bbox="943 1171 1081 1255">PM-2.5</td> <td data-bbox="1081 1171 1219 1255">45</td> <td data-bbox="1219 1171 1351 1255">60</td> </tr> <tr> <td data-bbox="943 1255 1081 1339">So2</td> <td data-bbox="1081 1255 1219 1339">20</td> <td data-bbox="1219 1255 1351 1339">80</td> </tr> <tr> <td data-bbox="943 1339 1081 1413">No2</td> <td data-bbox="1081 1339 1219 1413">31</td> <td data-bbox="1219 1339 1351 1413">80</td> </tr> </table>	<p align="center">Harduaganj Railway Station</p>			Parameter	Results (µg/m ³)	NAAQS 2009 (µg/m ³)	PM-10	92	100	PM-2.5	45	60	So2	20	80	No2	31	80
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<p align="center">Location – 2 Near Harduaganj Railway Station, Tehsil Koli, District, Aligarh</p>																																		

	Parameters	24 Hours average value (ug/m ³)	Prescribed	
	PM10	194.21	100	
	SO2	19.3	80	
	NO2	26.3	80	
13.	It is evident from the above result PM10 is not meeting with prescribed limit of ambient air quality in both the locations.		Reason of high dust level in the area mentioned at point No. 12 which is due to local activities and transportation as well.	
Recommendations				
1.	Railway authority in cooperation with concerned cement Industry must develop proper and permanent facility to control and suppress the		Harduaganj Siding is owned by Indian Railways, its operation is under their guidelines. To ensure fulfilment of all respective	

	<p>fugitive dust emission generation while loading, unloading and transportation of clinker at line no. 14 of Harduaganj railway station. An action plan should be submitted in this regard to SPCB.</p>	<p>applicable rules and regulations updated time by time by Railways we have given the contract to “M/s P&P Exim Pvt. Ltd.”, along with handling and transfer clinker from Siding to our plant.</p>
2.	<p>The platform area near the line no. 14 should be paved to avoid fugitive emission while movement of trucks.</p>	<p>Harduaganj Siding is owned by Indian Railways. However, water tanker along with tractor and fogger machine (under our contractor’s supervision) have been deputed at the site to assure the dust is suppressed.</p>
3.	<p>Regular water sprinkling should be done on the roads and platform area to suppress road dust.</p>	<p>Water tanker, tractor, and fogger machine (under our contractor’s supervision) have</p>

		been deputed at the site to ensure the dust is suppressed.
4.	Industries/railway authority should carry out monthly ambient air quality monitoring near station area and submit compliance report to UPPCB	As per recommendation, monthly ambient air quality monitoring of Harduaganj Railway Station has been started and the compliance report is being sent to UPPCB. Compliance Report for the month of March and April, 2023 annexed as Annexure No. 2
5.	Industries should comply specific condition No. 15 of consent under section 21/ 22 of Air (Prevention and Control of Pollution) Act, 1981, i.e 'Industry shall focus on the different un-assessed source of air pollution in bagging plant	Industry has implemented all the best available measures to control the dust from loading & unloading which are given as below: <ul style="list-style-type: none"> • All raw materials are being stored in covered yard & silos and belt

	<p>and accordingly make a pucca arrangement to control cement dust generating from loading of trucks/railway wagons.</p>	<p>conveyors have been covered by Galvanised Iron Sheets.</p> <ul style="list-style-type: none">• Bag filter installed at all the transfer points of raw material handling to control fugitive dust emission.• All dust collected in the bag filter is recycled and reused in the plant.• Regular water sprinkling is being done on plant roads.• All roads are paved inside the plant.• Regular sweeping is done using the sweeping machine to
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		clean and collect dust from plant roads.
6.	Assessment of environmental compensation due to loading and unloading of clinker at railway station should be carried out by SPCB and accordingly environmental compensation should be imposed.	<p>Hardauganj siding is owned by Indian Railways, its operations are under their guidelines.</p> <p>Although we are already taking best possible measures (to cover the loss) at the site like tree plantation, installation of green curtains, using water sprinklers and anti-fog machines, etc.</p>
7.	Permission from CGWA for extraction of ground water should be taken as per rule.	The concerned siding is under Railways jurisdiction.

5. To summarize, earlier there were only 1 functional anti-smog guns and now there are 2 functional anti-smog guns. Further, new green

curtains have been installed since the older curtains were worn out due to weather/natural wear and tear. Further, PPE kits have been made available as recommended. Further, are in touch with educational institutions to recommend novel/scientific methods to further reduce air pollution.

6. Additionally, it may be noted that if any new technology is introduced or is available, Respondent No. 6 will use it in the best possible way to control the air pollution caused by the transportation of the clinker.

Place: New Delhi

Date: 20/05/2023

RESPONDENT No. 6 THOROUGH



Keshav Garg

ADVOCATE

D-190, Second Floor,

DEFENCE COLONY,

NEW DELHI-110024

PHONE: +91 7999999240









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MANGALAM CEMENT LTD.

दिनांक : 06.11.2023

MANGALAM CEMENT LTD.

सेवा में,

ANNEXUER-2

श्रीमान क्षेत्रीय अधिकारी

(उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड)

जे -1 ज्ञान सरोवर कॉलोनी , रामघाट रोड , अलीगढ़

विषय :- पत्रांक 2256 / OA-253 / 2022 दिनांक 14.12.2022 एवं गठित टीम द्वारा किए गए संयुक्त निरीक्षण दिनांक 10.11.2022 की संयुक्त निरीक्षण आख्या में दी गयी S.N.- 4.2 Recommendations no 4 की मासिक अनुपालना मार्च - 2023 . |

सन्दर्भ :- पत्रांक 2256 /OA-253 / 2022 दिनांक 14.11.2022 जो मा० राष्ट्रीय हरित अधिकरण , नई दिल्ली में ऑ.ए. संख्या- 537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन के सम्बन्ध में |

महोदय ,

उपरोक्त विषयक एव पत्र के सन्दर्भ में ,हम आपके समक्ष , आपके द्वारा दिनांक 14.12.2022 को जारी पत्र जो कि मा०राष्ट्रीय हरित अधिकरण , नई दिल्ली में ऑ.ए. संख्या -537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किये गये संयुक्त निरीक्षण दिनांक 10.11.2022 के सन्दर्भ में दिया गया था एव संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 में मासिक Ambient Air Quality Monitoring हरदुआगंज के पास कराके रिपोर्ट को UPPCB में जमा करने हेतु निर्देशित किया गया था है |

श्रीमान जी को अवगत करना है कि संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 के अनुसार मासिक Ambient Air Quality Monitoring रिपोर्ट आपके सदर्भ के लिए सलग्न है |

धन्यवाद

भवदीय

कृते मंगलम सीमेंट लिमिटेड ,अलीगढ़


07/04/23
(अधिकृत हस्ताक्षर)



प्रतिलिपि :-

1. मुख्य पर्यावरण अधिकारी (वृत्त -4) , उ० प्र० प्रदूषण नियंत्रण बोर्ड , लखनऊ
2. स्टेशन अधीक्षक , हरदुआगंज रेलवे स्टेशन अलीगढ़



Sample Number : VTL/A/Q5

 M/s Mangalam Cement Ltd.
 Plot No.-K-1, Industrial Area, Aligarh UP

 Report No. : VTL/A/2303210005/A
 Format No : 7.8 F-02
 Party Reference No : NIL
 Report Date : 25/03/2023
 Period of Analysis : 21/03/2023-25/03/2023
 Receipt Date : 21/03/2023

Name & Address of the Party :

Sample Description : AMBIENT AIR QUALITY MONITORING

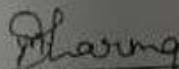
General Information:-

Sampling Location : Harduagang Railway Station
 Sample Collected By : VTL Team
 Sampling Equipment used : RDS/FPS
 Instrument Code : VTL/RDS/FPS/01
 Coordinates : -
 Meteorological condition during monitoring : Clear Sky
 Date of Monitoring : 19/03/2023 To 20/03/2023
 Time of Monitoring : 13:30 to 13:30 Hrs.
 Ambient Temperature (°C) : Min.15° Max 28°
 Surrounding Activity : Human, Vehicular & Plant Act.
 Scope of Monitoring : Regulatory Requirement
 Method of Sampling : IS :5182
 Sampling Duration : 24 Hrs.
 Parameter Required : As per work order

S.No.	Parameters	Test Method	Results	Units	NAAQS 2009
1	Particulate Matter (as PM10)	IS:5182 (P- 23)-2006, RA. 2017	83.01	µg/m ³	100
2	Particulate Matter (as PM2.5)	IS:5182 (P- 24)-2019	42.80	µg/m ³	60
3	Nitrogen Dioxide (as NO ₂)	IS:5182 (P- 6)-2006, RA.2018	30.84	µg/m ³	80
4	Sulphur Dioxide (as SO ₂)	IS:5182 (P- 2)-2001, RA. 2018	22.04	µg/m ³	80

*BLQ-Below Limit Of Quantification, **LOQ-Limit Of Quantification

End of Report



 Checked by

 RK Yadav
 Lab Incharge
 Authorized Signatory


Page No. 1/1


 EPA 1986 Recognised, ISO:9001 and OHSAS:45001 Certified

Vibrant Techno Lab Pvt. Ltd.

Q SC-40, 3rd Floor, Narayan Vihar S, Ajmer Road, Jaipur Raj. 302020

☎ 0141-2954638

✉ bd@vibranttechnolab.com

दिनांक : 28.04.2023

सेवा में,

श्रीमान क्षेत्रीय अधिकारी

(उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड)

जे -1 ज्ञान सरोवर कॉलोनी, रामघाट रोड, अलीगढ़

विषय :- पत्रांक :2256 / OA-253 / 2022 दिनांक 14.12.2022 एवं गठित टीम द्वारा किए गए संयुक्त निरीक्षण दिनांक 10.11.2022 की संयुक्त निरीक्षण आख्या में दी गयी S.N.- 4.2 Recommendations no 4 की मासिक अनुपालना अप्रैल - 2023 . |

सन्दर्भ :- पत्रांक 2256 /OA-253 / 2022 दिनांक 14.11.2022 जो मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या- 537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन के सम्बन्ध में।

महोदय,

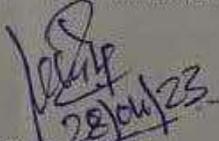
उपरोक्त विषयक एवं पत्र के सन्दर्भ में, हम आपके समक्ष, आपके द्वारा दिनांक 14.12.2022 को जारी पत्र जो कि मा०राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या -537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किये गये संयुक्त निरीक्षण दिनांक 10.11.2022 के सन्दर्भ में दिया गया था एवं संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 में मासिक Ambient Air Quality Monitoring हरदुआगज रेल्वे स्टेशन के पास कराके रिपोर्ट को LPPCB में जमा करने हेतु निर्देशित किया गया था है।

श्रीमान जी को अवगत करना है कि संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 के अनुसार मासिक Ambient Air Quality Monitoring रिपोर्ट आपके संदर्भ के लिए संलग्न है।

धन्यवाद

भवदीय

कृते मंगलम सीमेंट लिमिटेड, अलीगढ़


(अधिकृत हस्ताक्षर)



प्रतिलिपि :-

1. मुख्य पर्यावरण अधिकारी (वृत्त -4), उ० प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ
2. स्टेशन अधीक्षक, हरदुआगज रेल्वे स्टेशन अलीगढ़



Sample Number : VTL/AA/01

M/s Mangalam Cement Ltd.
Plot No.-K-1, Industrial Area, Aligarh UP

Report No. : VTL/A/2304260001/A
Format No : 7.8 F-02
Party Reference No : NIL
Report Date : 27/04/2023
Period of Analysis : 26/04/2023-27/04/2023
Receipt Date : 26/04/2023

Name & Address of the Party :

Sample Description : AMBIENT AIR QUALITY MONITORING

General Information:-

Sampling Location : Harduaganj Railway Station
Sample Collected By : VTL Team
Sampling Equipment used : RDS/FPS
Instrument Code : VTL/RDS/FPS/01
Coordinates : --
Meteorological condition during monitoring : Clear Sky
Date of Monitoring : 24/04/2023 To 25/04/2023
Time of Monitoring : 10:00 to 10:00 Hrs.
Ambient Temperature (°C) : Min. 19° Max 35°
Surrounding Activity : Human, Vehicular & Plant Act.
Scope of Monitoring : Regulatory Requirement
Method of Sampling : IS :5182
Sampling Duration : 24 Hrs.
Parameter Required : As per work order

S.No.	Parameters	Test Method	Results	Units	NAAQS 2009
1	Particulate Matter (as PM10)	IS:5182 (P- 23)-2006, RA. 2017	92.65	µg/m ³	100
2	Particulate Matter (as PM2.5)	IS:5182 (P- 24)-2019	45.53	µg/m ³	60
3	Nitrogen Dioxide (as NO2)	IS:5182 (P- 6)-2006, RA.2016	31.95	µg/m ³	80
4	Sulphur Dioxide (as SO2)	IS:5182 (P- 2)-2001, RA. 2018	20.01	µg/m ³	80

*BLQ-Below Limit Of Quantification, **LOQ-Limit Of Quantification

End of Report



Sudh
Checked by



Page No. 1/1

ved & Certified EPA 1986 Recognized, ISO:9001 and OHSAS:45001 Certified

ant Techno Lab Pvt. Ltd.

0, 3rd Floor, Narayan Vihar S. Ajmer Road, Jaipur (Raj) 302020
108691 9810205355 8005707098 9549956601

0141-2954638

bd@vibranttechnolab.com

www.vibranttechnolab.com

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 537 OF 2022

IN THE MATTER OF:

MUKESH KUMAR CHOUHAN

...APPLICANT

VERSUS

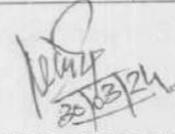
STATE OF UP & ORS.

...RESPONDENTS

INDEX

<u>S. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Additional Response on behalf of Respondent No.6 i.e. M/s Mangalam Cement in the present O.A. No. 537/2022	1-

Mangalam Cement Ltd.
K-1, CDF Complex, Chherat
Dist. Aligarh (U.P.) PIN-202122


RESPONDENT No.6

THROUGH

SHLOK CHANDRA
(ADVOCATE)

A-22, Defence Colony,
New Delhi-110024.

E-mail: shlokchandra@chandraLawchambers.com

Phone: +91 9999670588

Dated:

Place: New Delhi

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 537 OF 2022

IN THE MATTER OF:

MUKESH KUMAR CHOUHAN

...APPLICANT

VERSUS

STATE OF UP & ORS.

...RESPONDENTS

ADDITIONAL RESPONSE ON BEHALF OF RESPONDENT NO. 6

1. This Additional Response is being filed on behalf of Respondent No.6, Project Proponent i.e., Mangalam Cement Ltd. in furtherance of the Order dated 20.03.24 of the Hon'ble National Green Tribunal in the captioned matter.
2. In compliance with the order of the Hon'ble Tribunal it is submitted that following CSR activities have been undertaken by the Answering Respondent:
 - i) Solar Pump Installation: An amount of Rs. 1,00,000/- were allocated in the installation of solar pump in a Goshala, Aligarh for increasing reliance and use of renewable and sustainable energies.
 - ii) Solar Light Installation: An amount of Rs. 1,00,000/- were allocated in the installation of solar lights in a nearby Goshala in Chherat, Aligarh enhancing access to sustainable energy sources.
 - iii) Street Light Installation: An amount of Rs. 50,000/- were allocated in the installation of street lights in a nearby village called Rathgaon, Aligarh promoting access to better services.

- iv) Fodder distribution: An amount of Rs. 1,50,000/- were allocated for distribution of fodder in a Gowshala in a nearby village called Chherat in Aligarh.
- v) Construction of a Boundary Wall of a Baraat Ghar: An amount of Rs. 1,50,000/- were allocated for the construction of the Boundary wall of a Baraat Ghar so as to enable easy and affordable access to all.
- vi) An amount of Rs. 1,00,000/- were allocated for the construction of a cremation ground in a nearby village Chherat in Aligarh.
- vii) An amount of Rs.2,00,000 were allocated for the beautification of a pond in a nearby village Chherat in Aligarh.
- viii) Distribution of Children Kit in an Anganwadi: An amount of Rs. 1,50,000/- were allocated in the distribution of children kits in an Anganwadi contributing to overall developments of the young kids in the nearby village.
- ix) Distribution of Indian Flag: An amount of Rs. 40,000/- were allocated for the distribution of Indian Flag.
- x) An amount of Rs. 1,00,000/- was allocated to Aligarh Cricket Association of Deaf for fostering sports and recreational activities among the specially abled.
- xi) The Respondent Company has also spent substantial amount of money in distribution of essential goods to the poor and the needy. Around 100 blankets, sarees and umbrellas were distributed in a nearby Chherat Village.

3. That the Respondent No.6 company has taken all best available measures to mitigate air pollution and has planted Sheesham, Jamun, Arjun, Knaji trees in order to develop a green belt along the railway siding.

4. It is also respectfully submitted that a balance has to be met between economic development and environmental pollution. In the instant case, adequate measures have been taken by Project Proponent to mitigate air pollution in a proactive manner.

VERIFICATION

I, the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct and best to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at **Aligarh** on this **30** day of **March** 2024


Mangalam Cement Ltd.
K-1, CDF Complex, Chheret
Dist. Aligarh (U.P.) PIN-202022

DEPONENT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
 PRINCIPAL BENCH, NEW DELHI
 O.A. NO. 537 OF 2022

IN THE MATTER OF:

MUKESH KUMAR CHOUHAN

...APPLICANT

VERSUS

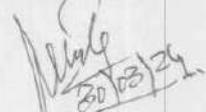
STATE OF UP & ORS.

...RESPONDENTS

AFFIDAVIT

I, **Mukesh Agarwal S/o Sh. Radhey Shyam** Aged about 56 years, presently working as **Plant In-Charge M/s. Mangalam Cement Limited Aligarh**, do hereby solemnly affirm and state on oath as follows:

3. That the deponent is the authorized signatory of the Respondent Company No.6 and is well conversant with the facts, circumstances and proceedings of the case and as such competent and duly authorized to swear and affirm this affidavit.
4. That I have gone through the contents of the accompanying additional response which has been drafted by my counsel and state that the same are true and correct to the best of my knowledge and as derived from the records maintained by the Respondent Company in its ordinary course of the business. The legal averments are based on the legal advice received and verily believed to be true.



DEPONENT

Mangalam Cement Ltd.
 K-1, CDF Complex, Chherat
 Dist. Aligarh (U.P.) PIN-202122

VERIFICATION

I, the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct and best to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at **Aligarh** on this **30** day of **March** 2024.


DEPONENT
Mangalam Cement Ltd.
K-1, CDF Complex, Chherat
Dist. Aligarh (U.P.) PIN-202122

ANNEXURE R-5

Anti-smoke guns are operated to suppress dust particles.











ANNEXURE R-7

Dumpers are completely covered with tarpaulin and wetting of road outside the railway















BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

[Under Sec. 16(g) of the NGT Act, 2010]

O.A. NO. 537 OF 2022

IN THE MATTER OF:

Mukesh Kumar Chauhan

...APPLICANT

VERSUS

State of UP & Ors.

...RESPONDENTS

VAKALATNAMA

Know all to whom these presents shall come that I, Respondent No.6, M/s Mangalam Cement Ltd hereby appoint:

SHLOK CHANDRA

ABHISHEK KEER

ADVOCATE

ADVOCATE

D/1056/2009

D/4543/2018

A-22, GROUND FLOOR, DEFENCE COLONY,

NEW DELHI-110024

MOBILE NO 9999670588/9560044698

Advocates, to be my/ our true and lawful attorney (s), in the matter noted above, to do all the following acts, deeds and things, or any of them, (jointly and severally) and also ratify anything already done on our behalf that is to say: -

1. To sign, verify and present and send notices, replies rejoinders, pleadings, appeals, cross-objections or petitions for execution, review, revision, other petitions or affidavit or other documents as shall be deemed necessary or advisable for the prosecution of the case or in relation thereto in all its stages.
2. To appear, act, and plead in the above-mentioned case in any court or tribunal etc, in which the same be heard or tried in the 1st instance or in appeal or review or revision or execution or in any other stage of its progress until its final decision.
3. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise to or in any manner relating to the said case.
4. To receive documents, papers, records, orders etc. and to do all other acts all things, which may be necessary or proper to be done for the progress and in all course of the prosecution of the said case.
5. To employ any other legal practitioner, advocate or consultant authorizing him to exercise the power and authority hereby conferred on the Advocate (s) whenever he/they may think fit to do so.

And I/We hereby agree that whatever the Advocate (s) or his/ there substitute shall do in the premises shall be binding on me in all intents and purposes just as if it would have been done by me.

And I/We hereby agree not to hold the Advocate (s) or his/their substitute responsible for the said case in consequence of his absence from the court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/ us to be paid to the Advocate (s) remaining unpaid he/they shall be entitled to withdraw from the prosecution of the said case, or not to appear until the same is paid.

In witness whereof I/We hereunto set my/our hand to these presents the contents of which have been explained to and understood by me/us.

Date: 22/07/2025



Advocate (s)

SHLOK CHANDRA
ADVOCATE

D/1056/2009

Client(s)
(Sanjiv Kumar Paliwal)

ABHISHEK KEER
ADVOCATE

D/4543/2018



In the matter of Mukesh Kumar Chauhan v. State of U.P & Ors O.A. No. 537/2022

Chandralaw chambers <admin@chandralawchambers.com>

Tue, Jul 22, 2025 at 7:13 PM

To: crb@rb.railnet.gov.in, csup@nic.in, ms@uppcb.in, gm@ncr.railnet.gov.in

Sir,

Please find the attached copy of the Additional Reply filed on behalf of Respondent No. 6 - M/S Mangalam Cement Ltd. in the captioned matter.

This mail shall act as advance service to you.

Regards.

Manoj Kumar

Chandra Law Chambers

A-22, ground floor, Defence Colony, New Delhi-110024

+91-9999670588| 011-47572618

<http://shlokchandra.in>

Notice of Privilege & Confidentiality: This email is **privileged**, being a **Professional Communication** under Section 126 of the Indian Evidence Act, 1872. This email is private as between the sender and the intended recipient. The information contained in this email, and any file that may be attached to it, is **strictly confidential** between those parties. Any other party who comes to be in receipt of it, erroneously or without prior consent of the sender, is neither permitted to read, use, copy, discuss or pass on the information contained in either the email or its attachments, nor entitled to take any action in reliance on the same. Therefore, if you are not the intended recipient of this email, you are requested to **delete** it and **contact the sender** at the earliest, using the contact details shared above.

**Additional Reply Mangalam Cement.pdf**

17713K

Harduaganj Sitting – Latest Plantation – 400 Plants Photographs.”

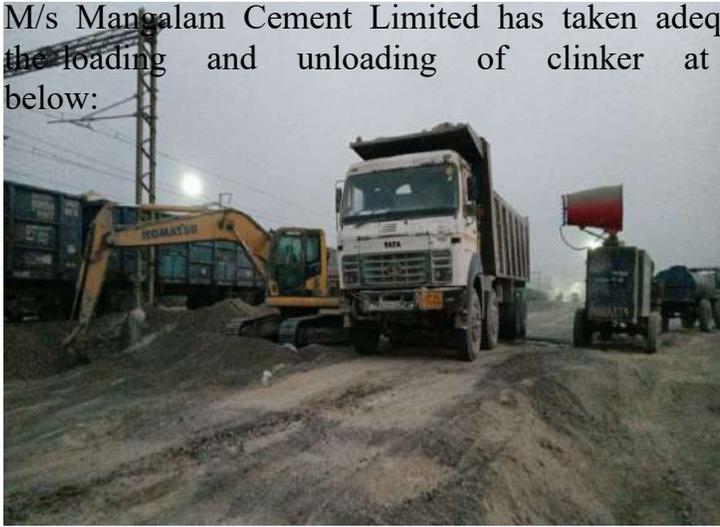


Annexure -R7



261

M/s Mangalam Cement Limited has taken adequate measures to control air pollution during the loading and unloading of clinker at the railway siding, which are listed below:



ANNEXURE R-9



MANGALAM CEMENT LTD.



दिनांक : 25.10.2025

सेवा में,

श्रीमान क्षेत्रीय अधिकारी
(उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड)
जे -1 ज्ञान सरोवर कॉलोनी, रामघाट रोड, अलीगढ़

विषय :- पत्रांक :2256 / OA-253 / 2022 दिनांक 14.12.2022 एवं गठित टीम द्वारा किए गए संयुक्त निरीक्षण दिनांक 10.11.2022 की संयुक्त निरीक्षण आख्या में दी गयी S.N.- 4.2 Recommendations no 4 की मासिक अनुपालना **October-2025**।

सन्दर्भ :- पत्रांक 2256 /OA-253 / 2022 दिनांक 14.11.2022 जो मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या- 537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन के सम्बन्ध में।

महोदय,

उपरोक्त विषयक एवं पत्र के सन्दर्भ में, हम आपके समक्ष, आपके द्वारा दिनांक 14.12.2022 को जारी पत्र जो कि मा०राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या -537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू० पी० में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किये गये संयुक्त निरीक्षण दिनांक 10.11.2022 के सन्दर्भ में दिया गया था एवं संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 में मासिक Ambient Air Quality Monitoring & Ambient Noise monitoring हरदुआगंज रेलवे स्टेशन के पास कराके रिपोर्ट को UPPCB में जमा करने हेतु निर्देशित किया गया था है।

श्रीमान जी को अवगत करना है कि संयुक्त निरीक्षण आख्या में दी गयी S.N – 4.2 Recommendation No – 4 के अनुसार मासिक Ambient Air Quality Monitoring & Ambient Noise monitoring रिपोर्ट आपके संघर्ष के लिए संलग्न है।

धन्यवाद

भवदीय
कुते मंगलम सीमेंट लिमिटेड, अलीगढ़

(अधिकृत हस्ताक्षर)



प्रतिलिपि :-

(Handwritten note)

1. मुख्य पर्यावरण अधिकारी (वृत्त -4), उ० प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ



TC-16696

EVERGREEN ENVIRO TESTING LLP

Address : 78/2, First Floor, Gaur Plaza (Building No. 2), Lal Kuan, Greater Noida,
G.B. Nagar, Uttar Pradesh - 201009, India

Ph.: 0120-4959379, 7428487870, Mob.: +91-8010087998, 9643079162, 7982197942

Email ID : evergreenlab03@gmail.com, info@evergreeneclab.com, Website : www.evergreeneclab.com



TEST REPORT

ISSUED TO	: M/S. MANGALAM CEMENT LTD. (CLINKER GRINDING UNIT) PLOT NO.-K-1, INDUSTRIAL AREA, ALIGARH (U.P)
Sample Identification No.	: EETR/M/111025/029
Test Report No & Date	: EETR/M/111025/029, DATE: 16.10.2025
Sampling Method	: EET/SOP/34/CHEM
Sample Description	: Ambient air
Sampling Duration (min)	: 1442
Sample Collected by	: EET Representative
Sampling Location	: Near Harduaganj Railway Station Aligarh
Ambient Temperature (°C)	: 30.4
Weather Condition	: CLEAR
Sample Collection Date	: 10.10.2025 To 11.10.2025
Date of Sample Receipt	: 11.10.2025
Sample Condition	: OK
Analysis Duration	: 11.10.2025 To 16.10.2025
Height of Monitoring Equipment Place	: 3.0 mtr
Equipment Used	: Respirable Dust Sampler, Fine particulate Sampler, Gaseous Attachment, Benzene Sampler & Tedlar Bag

ANALYSIS RESULTS

S. No.	PARAMETERS	UNIT	RESULTS	NAAQ STANDARD (MAX)	TEST METHOD
1.	Particulate Matter (PM10)	µg/m ³	85	100*	IS:5182(part-23)
2.	Particulate Matter (PM2.5)	µg/m ³	39	60*	IS:5182(part-24)
3.	Sulphur Dioxide (as SO ₂)	µg/m ³	28	80*	IS:5182(part-2)
4.	Nitrogen Dioxide (as NO ₂)	µg/m ³	38	80*	IS:5182(part-6)
5.	Carbon Monoxide (CO)	mg/m ³	BDL(DL-2.0)	2.0**	IS:5182(part-10)
6.	Ammonia	µg/m ³	BDL(DL-25)	400*	IS:5182(part-25)
7.	Benzene	µg/m ³	BDL(DL-5.0)	5.0*	IS:5182(part-11)
8.	Ozone	µg/m ³	29	100*	IS:5182(part-9)
9.	Benzo (a) Pyrene	ng/m ³	BDL(DL-20)	1.0*	IS:5182(part-12)
10.	Nickel as Ni	ng/m ³	BDL(DL-20)	20*	IS:5182(part-26)
11.	Lead as Pb	µg/m ³	BDL(DL-5.0)	1.0*	IS:5182(part-22)
12.	Arsenic as As	ng/m ³	BDL(DL-20)	6.0*	EEL/STP/AIR/001

BDL:-Below Detection Limit
DL:- Detection Limit

Checked by
MANSI JAIN



Page 1 of 1

Evergreen Enviro Testing LLP
Issued By
Authorised Signatory
Chandan Kumar Singh

- Note: 1. The result listed refer only to be Tested samples and applicable parameters.
2. Perishable samples will be destroyed after 15 days of sampling.
3. This report cannot be used as evidence in the court of law and cannot be used in part or full in any media without prior permission.
4. Subject to Gr. Noida Jurisdiction.



EVERGREEN ENVIRO TESTING LLP

Address : 78/2, First Floor, Gaur Plaza (Building No. 2), Lal Kuan, Greater Noida,
G.B. Nagar, Uttar Pradesh - 201009, India

Ph.: 0120-4959379, 7428487870, Mob.: +91-8010087998, 9643079162, 7982197942
Email ID : evergreenlab03@gmail.com, info@evergreeneclab.com, Website : www.evergreeneclab.com



TEST REPORT

ISSUED TO	:	M/S. MANGALAM CEMENT LTD. (CLINKER GRINDING UNIT) PLOT NO.-K-1, INDUSTRIAL AREA, ALIGARH (U.P)
Sample Identification No.	:	EETR/M/111025/034
Test Report No & Date	:	EETR/M/111025/034, DATE: 16.10.2025
Sampling Method	:	EET/SOP/34/CHEM
Sample Description	:	Ambient Noise
Sample Collected by	:	EET Representative
Sampling Location	:	Near Harduaganj Railway Station Aligarh
Sample Collection Date	:	10.10.2025 To 11.10.2025
Date of Sample Receipt	:	11.10.2025
Sample Condition	:	OK
Analysis Duration	:	11.10.2025 To 16.10.2025

ANALYSIS RESULTS

S. No	Test Parameters	Results	Units	Test Method	Limit as per CPCB
1.	Leq Day	66.4	dB (A)	IS:9989-1981	75
2.	Leq Night	57.1	dB (A)	IS:9989-1981	70

Note: Day time - 6:00am to 10:00pm
Night time - 10: 00 pm to 6:00am

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MANSI JAIN



End of the Report

Page 1 of 1

Evergreen Enviro Test...
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Authorised Signatory
Chandan Kumar Singh

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MANGALAM CEMENT LTD.



दिनांक : 27.11.2025

सेवा में,

श्रीमान क्षेत्रीय अधिकारी
उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड
जे-1, ज्ञान सरोवर कॉलोनी, रामघाट रोड, अलीगढ़

विषय : पत्रांक 2256/OA-253/2022 दिनांक 14.12.2022 एवं गठित टीम द्वारा किए गए संयुक्त निरीक्षण दिनांक 10.11.2022 की संयुक्त निरीक्षण आख्या में दी गई S.N.-4.2 Recommendation No. 4 की मासिक अनुपालना (November-2025).

संदर्भ : पत्रांक 2256/OA-253/2022 दिनांक 14.11.2022, जो मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या-537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू.पी. में पारित आदेश दिनांक 05.09.2022 के अनुपालन के संबंध में है।

महोदय,

उपरोक्त विषय एवं पत्र के संदर्भ में, हम आपके संज्ञान में लाना चाहते हैं कि आपके द्वारा दिनांक 14.12.2022 को जारी पत्र, जो मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में ओ.ए. संख्या-537/2022 मुकेश कुमार चौहान बनाम स्टेट ऑफ यू.पी. में पारित आदेश दिनांक 05.09.2022 के अनुपालन में गठित टीम द्वारा किए गए संयुक्त निरीक्षण दिनांक 10.11.2022 से संबंधित है, एवं संयुक्त निरीक्षण आख्या में दी गई S.N.-4.2 Recommendation No. 4 के अंतर्गत मासिक Ambient Air Quality Monitoring एवं Ambient Noise Monitoring हरदुआगंज रेलवे स्टेशन के पास कराकर रिपोर्ट को UPPCB में जमा करने हेतु निर्देशित किया गया था।

श्रीमान जी को अवगत कराना है कि उक्त Recommendation No. 4 के अनुसार मासिक Ambient Air Quality Monitoring एवं Ambient Noise Monitoring रिपोर्ट (November-2025) आपके संदर्भ हेतु संलग्न है।

धन्यवाद

भवदीय,
कृते मंगलम सीमेंट लिमिटेड, अलीगढ़

(अधिकृत हस्ताक्षर)

प्रतिलिपि :

1. मुख्य पर्यावरण अधिकारी (वृत्त-4), उ.प्र. प्रदूषण नियंत्रण बोर्ड, लखनऊ

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Central Marketing Office : 2nd Floor, Geejgarh Tower, Hawa Sadak, Jaipur-302008 (Raj.)
Regd. Office & Works : P.O.-Aditya Nagar, Morak, Distt. Kota-326520 (Raj.)
Tel 07459-232812, Fax : 07459-232156, Email : marketing@mangalamcement.com

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TC-16696

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Email ID : evergreenlab03@gmail.com, info@evergreeneclab.com, Website : www.evergreeneclab.com



TEST REPORT

ISSUED TO	:	M/S. MANGALAM CEMENT LTD. (CLINKER GRINDING UNIT) PLOT NO.-K-1, INDUSTRIAL AREA, ALIGARH (U.P)
Sample Identification No.	:	EETR/M/141125/024
Test Report No & Date	:	EETR/M/141125/024, DATE: 19.11.2025
Sampling Method	:	EET/SOP/34/CHEM
Sample Description	:	Ambient air
Sampling Duration (min)	:	1345
Sample Collected by	:	EET Representative
Sampling Location	:	Harduaganj Railway Station , Aligarh
Ambient Temperature (°C)	:	29.1
Weather Condition	:	CLEAR
Sample Collection Date	:	13.11.2025 To 14.11.2025
Date of Sample Receipt	:	14.11.2025
Sample Condition	:	OK
Analysis Duration	:	14.11.2025 To 19.11.2025
Height of Monitoring Equipment Place	:	2.0 mtr
Equipment Used	:	Respirable Dust Sampler, Fine particulate Sampler, Gaseous Attachment , Benzene Sampler & Tedlar Bag

ANALYSIS RESULTS

S. No.	PARAMETERS	UNIT	RESULTS	NAAQ STANDARD (MAX)	TEST METHOD
1.	Particulate Matter (PM10)	[µg/m ³]	85	100*	IS:5182(part-23)
2.	Particulate Matter (PM2.5)	[µg/m ³]	55	60*	IS:5182(part-24)
3.	Sulphur Dioxide (as SO ₂)	[µg/m ³]	28	80*	IS:5182(part-2)
4.	Nitrogen Dioxide (as NO ₂)	[µg/m ³]	36	80*	IS:5182(part-6)
5.	Carbon Monoxide (CO)	[mg/m ³]	BDL(DL-2.0)	2.0**	IS:5182(part-10)
6.	Ammonia	[µg/m ³]	BDL(DL-25)	400*	IS:5182(part-25)
7.	Benzene	[µg/m ³]	BDL(DL-5.0)	5.0*	IS:5182(part-11)
8.	Ozone	[µg/m ³]	35	100*	IS:5182(part-9)
9.	Benzo (a) Pyrene	[ng/m ³]	BDL(DL-20)	1.0*	IS:5182(part-12)
10.	Nickel as Ni	[ng/m ³]	BDL(DL-20)	20*	IS:5182(part-26)
11.	Lead as Pb	[µg/m ³]	BDL(DL-5.0)	1.0*	IS:5182(part-22)
12.	Arsenic as As	[ng/m ³]	BDL(DL-20)	6.0*	EECL/STP/CHEM/001

BDL: Below Detection limit
DL: Detection limit

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MANSI JAIN



Evergreen Enviro Testing LLP.

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Authorised Signatory
Chandan Kumar Singh

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Email ID : evergreenlab03@gmail.com, info@evergreeneclab.com, Website : www.evergreeneclab.com



TEST REPORT

ISSUED TO	:	M/S. MANGALAM CEMENT LTD. (CLINKER GRINDING UNIT) PLOT NO.-K-1, INDUSTRIAL AREA, ALIGARH (U.P)
Sample Identification No.	:	EETR/M/141125/026
Test Report No & Date	:	EETR/M/141125/026, DATE: 19.11.2025
Sampling Method	:	EET/SOP/34/CHEM
Sample Description	:	Ambient Noise
Sample Collected by	:	EET Representative
Sampling Location	:	Harduaganj Railway Station, Aligarh
Sample Collection Date	:	13.11.2025 To 14.11.2025
Date of Sample Receipt	:	14.11.2025
Sample Condition	:	OK
Analysis Duration	:	14.11.2025 To 19.11.2025

ANALYSIS RESULTS

S. No.	Test Parameters	Results	Units	Test Method	Limit as per CPCB
1.	Leq Day	68.1	dB (A)	IS:9989-1981	75
2.	Leq Night	55.9	dB (A)	IS:9989-1981	70

Note: Day time - 6:00am to 10:00pm
Night time - 10: 00 pm to 6:00am

Checked by
MANSI JAIN



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In the matter of Mukesh Kumar Chauhan v. State of U.P & Ors O.A. No. 537/2022

Chandralaw chambers <admin@chandralawchambers.com>

Sat, Dec 13, 2025 at 5:39 PM

To: crb@rb.railnet.gov.in, csup@nic.in, gm@ncr.railnet.gov.in, ms@uppcb.in

Cc: Shlok Chandra <shlokchandra@chandralawchambers.com>

Dear Sir/Ma'am,

Please find attached the Updated Action Taken Report on behalf of Respondent No. 6 in the captioned matter. Kindly treat the present mail as an advance service of the same. Thank you.

Regards,



Updated Action Taken Report Mangalam

Cement.pdf

Chandra Law Chambers

A-22, ground floor, Defence Colony, New Delhi-110024

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