

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Appeal No. 33 of 2023

In the matter of:

M/s Malbros International Pvt. Ltd. ...Applicants
Versus
Punjab Pollution Control Board & Ors. ...Respondents

Index

S. No.	Particulars	Page No.
1.	Written Submissions of original applicant (OA 606/2022) and affected residents (Sanjha Morcha Zira)	1-25
2.	Annexure A-1: True copy of the details of the Jamhoori Adhikar Manch.	26-27
3.	Annexure A-2: True copy of the Google Map of the area showing absence of green area.	28
4.	Annexure A-3: True copy of the CD comprising of videos of that area.	29
5.	Annexure A-4: True copy of the Google Earth image showing fly ash.	30
6.	Annexure A-5: True copy of Google Earth image showing borewells present inside.	31
7.	Annexure A-6: True copy of the sample photograph of the copy of the bank passbook showing payment by Malbros.	32
8.	Service Proof	33

Dated: 21.4.24, Place: New Delhi



Filed by:

Kawalpreet Kaur and Deepak Kumar
Advocates for the Sanjha Morcha Zira
576, Masjid Road, Jangpura, New Delhi-110014
kawalpreet303@yahoo.in | 08287908688

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Appeal No. 33 of 2023

In the matter of:

M/s Malbros International Pvt. Ltd. ...Applicants

Versus

Punjab Pollution Control Board & Ors. ...Respondents

Written Submissions of original applicant

(OA 606/2022) and affected residents (Sanjha Morcha Zira)

1. These submissions be read as part and parcel of the submissions earlier filed by the original applicant (Public Action Committee) and R-8 (Sanjha Morcha Zira) in OA 606/2022. The pleadings of the earlier submissions are not repeated here for the sake of brevity and liberty is taken to rely on those submissions as and when required.

Industry started its operation in 2006

2. In 2006, appellant distillery M/s Malbros International Pvt. Limited started its operation in Village Mansoorwal Kalan, Tehsil Zira, Ferozpur. However, as per the description of the local residents they were misled and were not informed that a liquor distillery is being set up in the area. This has been demonstrated by the report of the Jamhoori Adhikar Sabha.
3. The Jamhoori Adhikar Sabha in their report dated 27.1.23 (English translation, Page 3214, OA 606/2022) stated that villagers of the area

were informed a ghee factory would be established at the place. Therefore, it appears that the local residents of the area were misled and were not informed that a liquor distillery was being set up in their area. The Jamhoori Adhikar Sabha noted in its report that:

“The team was told by the leaders of the front, the people of the villages and the women that the factory administration brought the land from the farmers by saying that a ghee factory is to set up here. But the people of the area came to know this later that the factory was to make liquor. First 17 acres, then 25 acres and then it expanded to about 60-65 acres.

The factory owners started discharging their polluted effluent inside the closed sugar mill by putting bunds of two to two and a half feet. When the polluted water of the factory was released, it rose up and spilled into the adjoining fields and ruined the crop.”

4. Jamhoori Adhikar Sabha (Association for Democratic Rights, Punjab, a collective working for the people of Punjab since 1978. They organized in emergency period and was established by the intellectuals which included professors, doctors, lawyers and teachers having prominent members. One of the patrons of AFDR was Amar Kaur, sister of the freedom fighter Bhagat Singh. The details of the organization are provided herewith as **Annexure A-1** at page no. 26-27.

Violation brought on record in 2010: Vidhan Sabha Report

5. It is submitted that the soon after the residents of the area started complaining as the appellant company started discharging off their pollutants inside the closed sugar mill as mentioned above in the report of Jamhuri Adhikar Sabha. After two years of its establishment, in 2008, when the company's premises were inspected as part of investigation launched by the Vidhan Sabha, appellant Malbros was indicted among companies polluting the ground water.
6. The report of the 13th Punjab Legislative Assembly (Vidhan Sabha Report) pertaining to investigation of pollution being done by Sugar Mills and Distilleries in Punjab (2010-2011), (Page 3211-3213, OA 606/2022) for the Malbros International made the following observations:

The industry was inspected by the officials of the board on 29.1.08 and found that only few devices to control the water pollution has been made and it is not complete as per the proposal given by it. Therefore, the Chairman called them for personal hearing on 8.5.08 for refusal to consent but no one from industry came.

Industry is not following the provisions of Water Act 1974 and running without the consent of Board.

The committee also noted that the waste water after bottling is not taken to the treatment plant but is being discharged into the ground to which committee took serious notice. (Page 3213)

After inspection of distillery, the committee interacted with the residents of locality. The residents of locality emphasised on the issue that there is **increase in number of flies after installation of distillery.** **Whenever the wind flows from distillery, the stinking smell comes.**”

Fake public hearing done in 2016 when company sought expansion

7. It is further submitted that appellant company held a fake public hearing where persons were brought from outside the district having nothing to do with the factory, and being brought in trucks by the company for a fake public hearing in support of the company on 04.05.2016 in the Village Mansoorwala, Tehsil Zira, District Ferozepur, Punjab. This happened when a prominent MLA at that time (Mr. Deep Malhotra) who is one of the owners of the factory brought supporters from his constituency Faridkot which is 35 kms away from the factory. He was MLA from 2012-2017. This fact was found out by the local residents when they telephoned some of the attendees and found to their surprise that they were not from any place close to the factory. When confronted on phone as to why they came they simply said that they were supports of the MLA who had asked them to come.

8. The list of the residents who had attended the public hearing is available with the PPCB and Hon'ble Tribunal may direct the PPCB to place it on record as and when required. This would clearly show that the majority of those who attended the public hearing were not local residents of the area where the distillery was based.

Conditions in Environment clearance of 2018 violated by company

9. As per the environment clearance dated 15.1.18 (Page no. 146, appeal) which was granted to the company for expansion of grain-based distillery from 100 KLPD to 600 KLPD, the company was bound to follow certain terms and conditions provided. However, the company instead of adhering to these conditions, violated most of by them. The details of which are given below:

Conditions mentioned in Environmental clearance dated 15.01.2018 (Page 146)	Present status
3. Almost 33% i.e. 4.9 ha (12.10 acre) of total area has already been developed as greenbelt/plantation.	Photographs of the area and google maps demonstrate that there is no greenbelt/plantation around the company premises at Annexure A-2 herewith pp. 28.
5. The fresh water requirement of 900 KLPD is being met through ground water. The required clearance in this regard has been obtained from CGWA vide their letter dated 14 th March 2016 (for 2013 KLPD). The total water requirement due to the proposed expansion (additional capacity of 500 KLPD) is estimated to be 10958 cum/day. The treated effluent of 6848 cum/day is proposed to be recycled/reused.	No data has been provided by the company to show that effluent is being recycled/reused. Details and data from flow meters are not provided.

8. Ash from the boiler shall be sold to the brick manufacture.

Not being done. Nothing on record to show it is being sold to brick manufactures rather photographs and video evidence as attached in the CD herein at **Annexure A-3** demonstrate that fly ash has been poisoning the air quality of the area. A Facebook live <https://www.facebook.com/share/v/Q5nr36KU2bwZL7tC/?mibextid=jmPrMh> dated 11.09.2022 done by a member of the Zira Sanjha Morcha (local residents' group) would show how fly ash is currently being dumped in open by the factory affecting and endangering health of thousands of local inhabitants of the area. Further, this **Annexure A-3** also include video of Malbros people throwing effluent using flexible pipes onto the ash in the ash dump. Further, at **Annexure A-4** (pp. 30) is the google earth image which shows the premises of the factory where fly ash is dumped. All of which are illegal acts.

<p>12(d). As already committed by the project proponent, zero liquid discharge shall be ensured and no waste/treated water shall be discharged outside the premises.</p>	<p>The CPCB report dated 17.5.23 and others have demonstrated that factory has been engaging in reverse boring and affluent/toxic water is being discharged inside the borewells contaminating the ground water of the area. The CPCB report has shown that the two most toxic tubewells were present inside the factory which means the epicentre of the pollution is inside the premises.</p>
<p>12(k). Process organic residue and spent carbon, if any, shall be sent to cement industries. <u>ETP sludge, process inorganic & evaporation salt shall be disposed off to TSDF.</u> (Treatment, Storage and Disposal Facility).</p>	<p><i>No record has been provided by the company on this aspect. The appellate authority order has noted, "variation in the daily sludge generation" (Page 125, appeal) and the Chief Secretary report on water pollution dated 26.3.23 has noted, "High concentration of objectionable/toxic elements found in soil samples (Manganese 145000 mg/Kg, copper 1602 mg/Kg and Lead 16.60 mg/Kg) from Malbros industry. These test results can be correlated with control soil samples from the area." (Page 2926, OA)</i></p>

<p>(12)(n) <u>The green belt of 5-10m width shall be developed in more than 33% of total project area mainly along the plant periphery...</u></p>	<p>Photographs of the area and google maps demonstrate that there is no greenbelt/plantation around the company premises</p>
<p>12(p) At least 2.5% of the total project cost shall be allocated for Enterprise Social Commitment based on public hearing issues and item-wise details along with time bound action plan shall be prepared and submitted to the Ministry's Regional office.</p>	<p>Not being done. Dealt by Appellate Authority order and explained below.</p>
<p>12(t) For online continuous monitoring of effluent, the unit shall install web camera with night vision capability and <u>flow meters in the channel/drain carrying effluent within the premises.</u></p>	<p>No evidence provided. The appellate authority order dated 5.9.23 notes absence of data from flow meters.</p>
<p>12(v) Storage of raw materials, coal etc shall be either stored in silos or in <u>covered areas to prevent dust pollution and other fugitive emissions.</u></p>	<p>The video evidence as provided in Annexure A-3 herewith shows that the fly ash and other emissions are immensely present in the air because of which residents have also developed kidney and lungs related ailments.</p>
<p>12(s) Occupational health surveillance of the workers shall be done on a regular basis and records maintained as per the Factories Act.</p>	<p>Not being done. Dealt by Appellate Authority order and explained below.</p>

PPCB Consent of 2021-22: Conditions violated by company

10. In addition to the abovementioned conditions, the company was also bound to follow the terms and conditions stipulated by the PPCB which granted the company permissions to operate from time to time. Though the Punjab Pollution Control Board had been colluding with the industry and giving it consent to operate despite being fully aware that the conditions stipulated in the consent order were being violated by the company.

11. It was only after the residents of the area were fed up by the constant pollution and polluted water in the area started the demonstration and independent organisation like CPCB submitted its report DATED 17.5.23 that PPCB had withdrawn the consent on 30.6.23 (Page 401, appeal). It is pertinent to note that the following are the conditions to be followed by the industry:

“General conditions

14. The industry shall provide terminal manhole(s) at the end of each collection system and a manhole upstream of final outlet (s) out of the premises of the industry for measurement of flow and for taking samples.

15. The industry shall for the purpose of measuring and recording the quantity of water consumed and effluent discharged, affix meters of such standards and at such places as approved by the Environmental Engineer,

Punjab Pollution Control Board of the concerned Regional Office.

16. The industry shall maintain record regarding the operation of effluent treatment plant i.e. record of quantity of chemicals and energy utilized for treatment and sludge generated from treatment so as to satisfy the Board regarding regular and proper operation of pollution control equipment. (Page 155, appeal)

Special conditions

24. The industry shall provide electromagnetic flow meters at the source of water supply, at inlet/outlet of effluent treatment plant within one month and shall maintain the record of the daily reading and submit the same to the concerned Regional Office by the 5th of the following month.

33. Solids, sludge, filter backwash or other pollutant removed from or resulting from treatment or control of waste waters shall be disposed of in such a manner to prevent any pollutants from such materials from entering into natural water.

35. The industry shall make necessary and adequate arrangements to hold back the effluent in case of failure of re-circulation system/ effluent treatment plant.

The industry shall install CCTV camera at the new ETP Board and shall connect the same with the server of the board within 01 month and shall intimate the Regional of the Board, within 07 days, thereafter. (Page 158, appeal)

Order of the Appellate Authority dated 5.9.23

12. The Appellate Authority constituted under the Water (Prevention and Control) of Pollution Act and the Air ((Prevention and Control) of Pollution Act) upheld the order of the PPCB refusing consent to operate to the appellant industry.
13. The table below gives the grounds on which the Appellate Authority has issued the order dated 5.9.23 and refused the consent (Page 119, appeal). The table below also looks at the response of the company to these grounds. The company in its appeal before this tribunal has not even answered and dealt with the objections raised by the Appellate Authority. This shows that the objections raised are true and company failed to adhere to the conditions laid down for its operation:

Appellate Authority order 5.9.23	Grounds taken in appeal by the company	Remarks
<p>a) <u>Water Usage:</u></p> <ul style="list-style-type: none"> Claim of industry regarding obtaining of fresh water from the canal @0.75 cusec and rest from the ground water cannot be assessed. 	<ul style="list-style-type: none"> No answer to question of flow meters from either canals or borewells. Rather company has stated that only had permission for 4 borewells and 3 	<ul style="list-style-type: none"> No flow meters or proper water usage measurements as mandated in the Environment Clearance of 2018, clause12(t) provided. (see page..... of this note)

<ul style="list-style-type: none"> • Permission given for 4 borewells and as per condition of permission, it shall provide separate flow meter at all water extracting structures. .. • No mention of specific water extraction structure. (Page 124) 	<p>borewells were being operated. (Page 105).</p>	<ul style="list-style-type: none"> • Company has admitted in its appeal at page no. 73 that premises of the company has 10 borewells in total but it only has permission for 4 such borewells to operate. • The reasoning given by the company now is that 2 borewells were already in existence when agricultural land was taken from the farmers and for rest of borewells it states it dug out but closed the borewells either due to <i>vastu</i> consultant or other miscellaneous reasons. This shows a false and dubious story is being created today to cover up the point that it continued to operate 10 borewells illegally without obtaining due permissions for the same.
<p>b) ETP Sludge:</p> <ul style="list-style-type: none"> • There is variation in the sludge generation as per ETP record of the industry despite same production capacity and quantity of chemical used in the ETP. The sludge data was found to be having 	<ul style="list-style-type: none"> • No answer has been given. 	<ul style="list-style-type: none"> • As per the abovementioned EIA clearance of 2018, clause 12(k). <i>Process organic residue and spent carbon, if any, shall be sent to cement industries. ETP sludge, process inorganic & evaporation salt shall be disposed off to TSDF.</i>

<p>shortcomings and being unreliable. (Page 125)</p>		<p><i>(Treatment, Storage and Disposal Facility)</i> (Page 148)</p> <ul style="list-style-type: none">• Nothing is on record to show that sludge was ever disposed to either TSDF and to cement industry.• As per the appeal filed by the Malbros, they have admitted, “due to disposal of sludge which is an organic manure, might have mixed with soil and ash.” This shows that the company has been disposing of sludge within the factory premises which was to be sent to TSDF or cement factory. This is in response to the finding of CS committee Report that found VFA (Volatile Faty Acid) from soil samples of the factory premises. (Page 48)
--	--	---

<p>(c) <u>Enterprise Social Commitment:</u></p> <ul style="list-style-type: none"> • No timebound action plan for enterprise social commitment. Only spent 6.51 lakhs for social commitment out of 2.5% of total project cost. Found unsatisfactory. (Page 125) 	<ul style="list-style-type: none"> • They did not have enough time. (Page 101) 	<ul style="list-style-type: none"> • As per EIA clearance of 2018, clause 12(p): <i>At least 2.5% of the total project cost shall be allocated for Enterprise Social Commitment based on public hearing issues and item-wise details along with time bound action plan shall be prepared and submitted to the Ministry's Regional office.</i> (Page 148)
<p>(d) <u>Medical:</u></p> <ul style="list-style-type: none"> • Medical certificates of employees have no mention of the reference of medical certificates. Tampering of the signature. (Page 125) 	<ul style="list-style-type: none"> • Not dealt by the company in its appeal. 	<ul style="list-style-type: none"> • As per EIA clearance, clause 12(s): <i>Occupational health surveillance of the workers shall be done on a regular basis and records maintained as per the Factories Act.</i> (Page 148)
<p>(e) <u>Green belt:</u></p> <ul style="list-style-type: none"> • No dimensional marking of the plantation area developed/proposed by industry. Plantation area cannot be calculated. 	<ul style="list-style-type: none"> • Not dealt by the company in its appeal. 	<ul style="list-style-type: none"> • Development of 33% area as green belt was the condition for getting Environmental Clearance which was not fulfilled. As per EIA clearance, clause (12)(n) <i>The green belt of 5-10m width shall be developed in more than 33% of total project area mainly along the plant periphery...</i> • No green belt is present at the area and the area which was behind the company has already been destroyed by the

		company. This is visible on the google maps in the factory premises. (Annexure A-1)
<p>(f)Fly ash: Large excavated area with sludge/ash is seen in the Malbros industry. Also, visible in google map.</p>	<ul style="list-style-type: none"> • Company has submitted in its appeal (Page 47) that, “<i>In order to dispose of the boiler ash in a scientific manner, a stretch of area was dug out as the ash generated from boiler is of biomass and it does not contain any pollutant which may pollute the soil...</i>” 	<ul style="list-style-type: none"> • While EIA clearance in 2018 notes at its clause, <i>8. Ash from the boiler shall be sold to the brick manufacture. As per its 12(v) Storage of raw materials, coal etc shall be either stored in silos or in <u>covered areas to prevent dust pollution and other fugitive emissions.</u></i> • However, as per company’s own admission it has stated that it uses to dispose boiler ash by digging areas in open. This is also visible in google map. (Page 47, appeal) • Further, live Facebook video from the area dated gives a visible representation to the fly ash. (Annexure A-3)

Frivolous grounds taken in appeal by the company for setting aside well-reasoned Appellate Authority order

A. Ground 1: Company state Appellate Authority ought not to have followed CPCB directions under 18(1)(b) (Page 22)

14. As per the submissions of the company, the only reason for the withdrawal of its consent by PPCB is due to the directions passed by CPCB under Section 18(1)(b) of the Water Act. That is incorrect for two reasons. First, the Appellate Authority has clearly taken into consideration all reports and communications before coming to the conclusion of not allowing the appeal for consent to operate. Second, CPCB has been vested with power under Section 18(1)(b) to issue directions to the state board. That was rightfully directed by CPCB which after noting the violations reported in its inspection report had directed the PPCB to take necessary remedial measures for decontamination of the affected site among others. CPCB had neither exceeded its jurisdiction and nor acted in any perverse manner. The Section 18(1)(b) notes:

“(b) every State Board shall be bound by such directions in writing as the Central Board or the State Government may give it to it”

B. Ground 2: Company states pollution due to Geogenic Reasons (Page 23)

15. The report relied upon by the company shows that over 1,525 villages have polluted groundwater in the state of Punjab. That is just 10% of the total state. The company has been looking for reasons to show that the severely polluted groundwater in the area is due to some pre-existing natural causes. If that has been the case, then there is no answer to why two of the most polluted borewells (as indicated in the CPCB report) were found inside the company's factory premises. The

company has also failed to explain the presence of heavy metals and toxicity found in the groundwater present inside the factory's premises. These water samples and the level of pollutants are higher and ten times worse than the report being relied upon by the company. This is a special case wherein the source of pollution is reverse boring and the actions of the company that polluted the groundwater in that area.

16. Further, there are over 12,600 villages in the state of Punjab. The sample 1,525 villages cannot conclude that in the entire state of Punjab groundwater is already polluted.
17. The company also failed to provide baseline data for Mansoorwal village in 2006 when it started operating there. The baseline study of 2006 would have shown that, in contrast to the present, there was no presence of any heavy metals in the area. This would have also shown the complicity of the company. Even the CPCB, in its affidavit filed in this case dated 8.1.24, has shown the comparison of the ground water quality in 2015 and 2023 in village Mansoorwar Kalan, village Pandori Khatrian, and village Ratol Rohi, which shows the increase in pollutants in 2023.
18. Further, the company has argued that cyanide was found due to geogenic reasons (page 107, appeal) this is totally misleading in light of the Chief Secretary Committee report dated 26.3.23 that found presence of "*high concentration of volatile fatty acids found in the soil samples from Malbros industry.*" (Page 2930, OA 606/2022)

C. Ground 3: Company states pollution due Pesticides (Page 23)

19. The entire theory of pesticides causing ground water pollution in Punjab has been completely debunked by CPCB report in OA No. 676 of 2023

wherein NGT had directed CPCB to check if any pesticide caused groundwater pollution in the state of Punjab. The CPCB report submitted to NGT concluded as under:

“12. Pesticides monitored at 43 locations indicate that all these pesticides were Below Detection Limits (BDL) in the state.”

D. Ground 4: Company reasons: Less chemicals in nearer samples than farther samples (Page 24)

20. This is not borne out by the facts and is misleading. The heaviest ground water pollution in the area is clearly in the two borewells identified by CPCB as borewell 4 and borewell 5 inside the Malbros industry. This can be seen through the bar graphs and the epicentre map which was filed by the original applicants and R8 with their revised written submissions dated 12.2.24 (In OA 606/2022, Page 3157 onwards) which showed that the two borewell 4 and 5, present inside the industry showed the highly prevalent level of pollutants. The location of these two borewells inside the industry premises can be seen from Google Earth image at **Annexure A-5** at page no. 31.

E. Ground 5: Company states no notice of orders of High court taken. (Page 55)

21. The Punjab and Haryana High Court in its order dated 11.10.22 and 22.11.22 has not passed any order on merits of the case and has not given any clean chit to the company to operate. The orders pertained to security and ensuring free passage for the working of the company. During that time company had the necessary conditions and consent to operate. Therefore, the court was not dealing with a case wherein

consent was subsequently withdrawn due to lack of adherence to the environment clearance and conditions. At that time, the subsequent reports had not come out in public. The CPCB report was yet to come.

F. Ground 6: CPCB reports procedurally faulty and not admissible as evidence

22. This has been answered comprehensively by CPCB in its affidavit dated 13.2.24 in OA 606 (Page 3174) wherein it has stated that dividing of samples, signing off of samples, sealing of samples, time taken to fill the samples and all other questions and doubts about protocols and procedures followed has been completely dealt with and responded to by the CPCB. That they followed every rule. Photos to show the presence of industry representative when the CPCB team had visited the premises for collection of samples is also on record. The CPCB affidavit states:

“...4. samples were divided in two portions, one of which was sealed, marked and signed by both CPCB officer and the industry representative. However, the representatives of the industry refused to acknowledge the receipt of the second portion as mandated under the Environment (Protection) Act, 1986.”

G. Ground 7: Reliance on public perception by Appellate authority. (Page 26)

23. The public perception is also aligned with the scientific evidence obtained by the CPCB and the Punjab Govt. CS committees. The public sentiment also shows that the villagers of the area have been fed up by the intense pollution they have been subjected to by the company and

have developed health conditions. The public sentiment being against the company indicates the frustrations of the people on the ground.

H. Ground 8: Retired Judge report not given consideration (Page 26)

24. The Appellate Authority has acknowledged the monitoring committee report but has not placed heavy reliance on it. This was correct decision of the appellate authority as:

(i) PPCB was colluding with Malbros for decades so they had a vested interest in protecting Malbros. PPCB officers were the agency used for field work when retired judge committee visited and took samples so that was a huge conflict of interest for PPCB.

(ii) PPCB took samples from three borewells inside the industry for their first report. They took samples from the same three borewells even for the retired judge committee report. It is even recorded in the retired judge report that the company officials were directing that committee about which borewells to take samples from and they directed them towards these three borewells only. The company claimed that those were the only working borewells in the industry and the PPCB officials actually followed those directions. The fourth and the fifth borewell were opened by the retired judge committee only when villagers asked them to do so. The water from these two borewells came out as extremely dirty, polluted and coloured and members of the public even took photos and videos. The report (Page 183, appeal) notes:

“5. industry informed the Monitoring Committee that there are 03 working tubewells in the industrial premises, whereas 4th tubewell is not in operatable condition due to leakage in the pipeline and 5th tubewell

has been closed recently on advice of Vastu consultant. The Monitoring Committee directed the officers of PPCB to collect water samples of tubewell and find out the reasons for stagnation of wastewater near the septic tank.”

(iii) The PPCB officials managed to get a favourable report even for those two borewells by resorting to some subterfuge. The water from the two borewells which were not touched by the retired committee report are the same borewells from which extremely polluted water was recorded in the CPCB report and also in the CS committee report. The two borewells from which the retired judge committee was discouraged from taking samples (one borewell was closed citing Vastu consultant) are those in which the reverse boring and injection of effluents was done as per the findings of the CPCB.

(iii) The CPCB report and the Punjab Govt (CS Committee) reports came subsequently after the retired judge committee report and did a much more comprehensive, thorough, transparent and professional job than what PPCB had done. The appellate authority was therefore absolutely right to rely on the CPCB and CS Committee reports for the decision and not on the retired judge committee report which had relied upon the company and PPCB.

I. Ground 9: The entire case is politically motivated (Page 112)

25. The complaint in the Lok Sabha was taken up by members of Parliament of the area who belong to the Congress. The CS Committee was formed by state govt under Aam Aadmi Party. The CPCB report was prepared by officers who ultimately report to the Union Ministry

of Environment which is under BJP. The Vidhan Sabha report of 2010 which made strong comments against pollution of Malbros was made when Shiromani Akali Dal was in power. Therefore, the argument of the company that it is being done as part of some political conspiracy is absurd and devoid of logic.

J. Ground 10: No violation of law or environmental law has ever been done by this industry in 15 years of operation. (Page 99)

26. The Vidhan Sabha report in 2010 as mentioned above clearly mentions Malbros was not complying with norms of pollution.
27. Further, a complaint to PPCB from 2021 is on record which is mentioned in IA 262 in OA 606/22 wherein company officials were video recorded dumping effluent water in the forest of the defunct sugar mill behind their factory. Malbros also responded to it by submitting video footage of a later period than was sought from them. The video to demonstrate that dumping of effluent water in the forest premises is part of the **Annexure A-3** attached herein as a CD.

K. Ground 11: Company state Chief Secretary report not reliable as two samples have same label. (Page 42)

28. This is a misleading argument by the company to cast aspersions on the Chief Secretary Report after having made similar allegations against the CPCB. It is being done as both the reports have shown pollution and toxics from the samples of ground water from industry premises. The company has concocted a story stating that, *“6 samples out of which in 2 analysis report of the same point of sampling have been mentioned, however, the concentration of the parameters is different.”*

29. This is misleading as the expert committee in its summary report of the table (OA 606, Page 2929) has given findings in respect of 5 samples and all samples show high level of pollutants and toxic elements in it.

L. Ground 12: Company states pollution due to the sugar mill which operated earlier and sewage leakage.

30. First, the Zira Sugar Mill was closed by Punjab Govt. before the commencement of Malbros Factory. The 2015 water quality comparison data given by CPCB shows the area in general was less polluted then. (Page 670, OA 606) However, despite orders of this Hon'ble tribunal, the PPCB has failed to submit the 2006 baseline data till date. This would have shown that groundwater was not polluted before the company started in the area.
31. Second, the industry seeks to explain the report of the CPCB stating ground water gets contaminated with sewage leakages. The fact is that the two worst borewells with extremely high pollution, blackish colour and foul odour were found within the industry premises has not been dealt by the industry. This shows that these parts have been accepted by the industry as the most polluting borewells were found inside their premises. It is also important to note that sewage leakages if any can contaminate top layer of the ground water and not deeper water table. Most samples were taken from much deeper wells by the CPCB.

Visible signs of pollution due to Malbros Industry

- (i) **Fly Ash is dumped in large open pits which flies impacting residents.**

32. There is a huge dump of fly ash in illegally excavated large area within Malbros industry premises which that it is even clearly visible on Google Maps. (**Annexure A-4** herein at page no. 30) Even the report of the Magistrate found the Malbros Factory guilty of violating the Mining Rules and excavating **deep pits** and **dumping ash there**. Director of Malbros Ms. Dimpi Malhotra and others were found guilty and issued notice. This is part of the appeal at page 165. The letter is in Punjabi and the relevant part in English is as given below:

“Inspection of this illegal mining was done by officer today and a deep pit for that purpose was seen.” (Page 165 appeal)

33. Many videos have been made by villagers to show how this fly ash flies and engulfs entire villages surrounding the factory when even a mild wind blow. One such Facebook live video with time stamps is attached which clearly shows the state of affairs and is annexed herewith as **Annexure A-3**.
34. Further, the company in its appeal has also admitted of digging in the area and disposing of the ash in public. It states, *“In order to dispose of the boiler ash in a scientific manner, a stretch of area was dug out.”* (Page 47, appeal)

Fly ash is toxic and resulted in deaths of
65 -70 cattle in the area in Feb 2022

35. Around 65–70 cattle in the village of Mansoorwal, near the factory, died at the same time in February 2022 when fly ash fell on the fields and animals ate the fodder from those fields. A one-page handwritten report

was later produced, claiming some nitrate in the fodder was responsible. Such a brazen false report could only have been prepared by bribing some officials. In a huge coincidence, all the animals died in the fields very near the factory. No animals died outside the village of Mansoorwal in the nearby villages in that manner on those two days. All fields in which the fodder became toxic due to fly ash were on the same side of the factory (east/south-east) and within two kilometers of the factory. No animals died on the other side of the factory, even in the same village, Mansoorwal. The factory owners even paid compensation to the villagers by check, for which full documentary evidence is available. One such photograph of the copy of the passbook showing payment made by Malbros has been attached herewith as **Annexure A-6** at page no. 32. Therefore, the dumping of fly ash by Malbros in open pits is not only a big nuisance for every one living in the area but also a source of hazardous air pollution.

Jamhoori Adhikar Sabha (Punjab)**Association For Democratic Rights (Punjab)**

2409, Krishna Nagar, Ludhiana - 141001

Background

The Association For Democratic Rights (Punjab) was organized in 1978 in the post emergency period. This was established by the intellectuals which included professors, doctors, lawyers, teachers, and freedom fighters.

The first president of the organization was Baba Bhagat Singh Bilga of Ghadar Party which was established in 1914-15 and has served during the freedom struggle as well as post independence period. One of the patrons of AFDR was Bibi Amar Kaur sister of the great freedom fighter Shaheed Bhagat Singh.

The basic premises was that democratic functioning can only be assured by raising the democratic consciousness of the people. The method adopted for the purpose was to conduct spot visits and inquiries into the issues where the democratic rights violation was taking place.

The inquiries were done in a professional manner and were recorded and disseminated in the public.

AFDR was one of the associates of PUCL and PUDR which enquired into the 1984 delhi riots which was immediately published in Punjabi to educate the public of Punjab.

AFDR has been constantly enquiring into the violations of democratic rights by the state and bringing out fact finding reports in such cases.

The organization has been taking up special awareness campaigns about the universal charter of human rights as well as on undemocratic laws and regulations and this is taken up on a regular basis every year. The organization has also enquired into the environment justice issues.

In this one report was prepared about liquor factory at Sangat Kalan Bathinda in October 2012. Similarly in July 2013 a report on the municipal dump and its effect on the health of the people was prepared. The report was also prepared on the collapse of the building of Sheetal Fibers Factory Jalandhar in 2012 in which 23 workers died and 62 were injured. Similarly the organization enquired into the fire at chemical factory at Lalru in 2012. Veer Garments Ludhiana 2008 in which there was an explosion in the factory where a lot of violations of industrial laws and norms were found. In 2012 enquiry into a blast in a steel industry in Rampura where workers were burnt and deaths were reported.

Number of reports were also taken up concerning the violations of rights of women. Recently the organization made a detailed enquiry into the deaths caused by leakage of gas from sewage line in Giaspura, Ludhiana and provided detailed study about the circumstances and possible causes of the incident.

The organization is a membership based and spreads over a number of districts of Punjab. It has a democratic functioning where regularly the office bearers are elected.

Currently the organization is headed by Prof. Jagmohan Singh who is the president of the organization since 2016. Prof Jagmohan Singh is a retired professor from Punjab Agriculture University where he worked as professor and scientist. He is a post graduate of IIT Kharagpur. He is nephew of Shaheed Bhagat Singh.



Malbros International
Private Limited

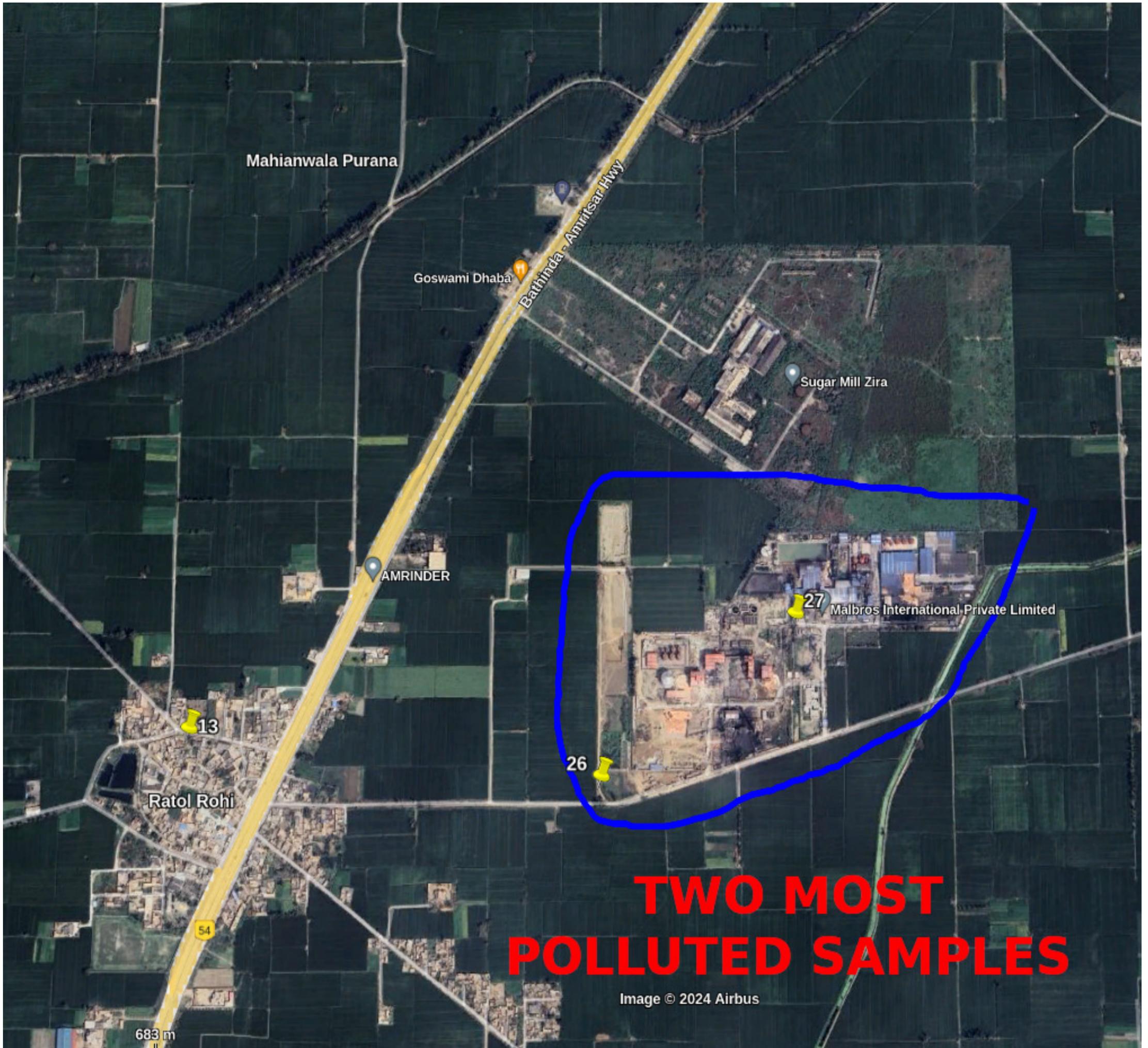
**NO GREEN BELT
INSIDE THE
INDUSTRY**

Annexure A-3

CD

Annexure A-4





Annexure A-6

4/18/24, 12:40 PM

about:blank

STATEMENT OF ACCOUNT

SARABJIT KAUR W/O GURLABH SINGH
Mansurwal Ferozepur Punjab
zira
Ferozepur
142050

Account No : 50438417312
Product: SBCHQ-IB MAHILA SHAKTI VAR-I
Currency: INR
Int Rate : 2.75 % P.a
Limit : 0.00
Drawing Power: 0.00
Cleared Balance : 102717.00Cr
Uncleared Amount : 0.00
Nominee name :
Ckyc ID : XXXXXXXX502454

INDIAN BANK
ZIRA
FEROZPUR
PUNJAB
142047
Branch Code : 06479
Phone No :
Email ID : zira@indianbank.co.in
IFSC Code : IDIB000Z503
Statement Date : 18-Apr-2024
Statement From : 01-Mar-2022
To : 31-Jul-2022
Statement Time : 12:40:04
Page No. : 1

Post Date	Value Date	Details	Chq.No.	Debit	Credit	Balance
						1118.00cr
		Brought Forward			8.00	1126.00Cr
31/03/22	31/03/22	CREDIT INTEREST				926.00Cr
13/04/22	13/04/22	Branch-ZIRA /Paid to self /	766265	200.00		1426.00Cr
22/04/22	22/04/22	CASH DEP/ZIRA /Deposit by SELF /			500.00	36426.00Cr
25/05/22	25/05/22	BY TRANSFER MALBROS INTERNAT/SBIN522145642253 /NEFT/SBIN /			35000.00	1426.00Cr
26/05/22	26/05/22	Branch-ZIRA /Paid to self /	284266	35000.00		1438.00Cr
30/06/22	30/06/22	CREDIT INTEREST			12.00	

Statement
Summary

Dr. Count:2

Cr. Count:4

35200.00

35520.00

In Case Your Account Is Operated By A Letter Of Authority/Power Of Attorney Holder, Please Check The
Transaction With Extra Care.

*** END OF STATEMENT ***

Written Submissions dated 21.04.24 in Appeal no. 33 of 2023 on behalf of the Original Applicant (in O.A. 606 of 2022) and affected residents (Sanjha Morcha Zira, R-8 in O.A. 606 of 2022)

1 message

Deepak Singh <deepak.singh@hrln.org>

Sun, Apr 21, 2024 at 10:06 PM

To: chairman.ptl.ppcb@punjab.gov.in, chairmanppcb@yahoo.co.in, seezobti@gmail.com, zldmalbros@oasisgrp.in, rdchandigarh.cpcb@gov.in, gurnamsingh.cpcb@nic.in, msppcb@punjab.gov.in, mattewarasutlejpac@gmail.com, ccb.cpcb@nic.in, narendersharma.cpcb@gov.in, mscb.cpcb@nic.in, ppcbfdk@yahoo.com, cs@punjab.gov.in, artakkar@artlo.in

Dear Sir/Madam,

Please find the Written Submissions dated 21.04.24 in Appeal no. 33 of 2023 on behalf of the Original Applicant (in O.A. 606 of 2022) and affected residents (Sanjha Morcha Zira, R-8 in O.A. 606 of 2022) listed before the Hon'ble NGT, Principal Bench, Delhi. Please consider it as proof of advance service of the Written Submissions dated 21.04.24 in Appeal no. 33 of 2023.

Thank you,

Regards,

Deepak Kumar Singh (Advocate)
Socio Legal Information Centre
576, Masjid Road, Jungpura,
New Delhi-110014

**21.04.2024 Note in Appeal no. 33 of 2023 by OA and R-8.pdf**

2567K