

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN BENCH, AT PUNE
ORIGINAL APPLICATION NO. 104 OF 2019

IN THE MATTER OF:

NITIN DEVRAJ JARU & ANR.

... APPLICANTS

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

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PLACE: PUNE
DATE: 05/04/2023

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WRITTEN SUBMISSIONS ON BEHALF OF RESPONDENT NO. 6

1. The present written submissions are being filed on behalf of Respondent No. 6 (SAL Steel Limited) in compliance of the order dated March 31, 2023 and to assist the Hon'ble Tribunal in disposal of the Original Application No. 104 of 2019.
2. This Hon'ble Tribunal vide its order dated March 30, 2022 (corrected on April 4, 2022) had directed to constitute a joint committee for submitting a report for consideration by this Hon'ble Tribunal.
3. Subsequently, in compliance of the order dated March 30, 2022 (corrected on April 4, 2022), a joint committee was constituted by CPCB, GPCB, CGWA and District Magistrate, Kutch, Gujarat comprising of following members:
 - a) Shri M.V Desai, Sub Divisional Magistrate, Anjar, Kutch;
 - b) Dr. Arvind Kumar Jha, Scientist E, Central Pollution Control Board (CPCB), Regional Directorate (W), Vadodra, Gujarat;
 - c) Shri K.B. Chaudhari, Regional Officer, Gujarat Pollution Control Board, Regional Office, Kutch (East), Gandhidham, Gujarat;
 - d) Dr. Subhas Singh, Assistant Hydrologist, Central Ground Water Authority, Ahmedabad.
4. In furtherance to the investigations conducted by the said joint committee, a Compliance Report dated May 2022 ("**Joint Committee Report**") with reference to Respondent No. 6 was submitted by Gujarat Pollution Control Board ("**GPCB**") to the Hon'ble Tribunal (@ **Page 680**). The conclusions made by the Joint Committee (@ **page 707**) in its report have already been complied with by Respondent No. 6 and the same were placed on record before this Hon'ble Tribunal by way of Additional Affidavit dated December 13, 2022 and the same are stated below:

CONCLUSIONS OF THE JOINT COMMITTEE AND ITS COMPLIANCE BY RESPONDENT NO. 6

- (i) The unit has violated CRZ notification 2011 and accordingly Rs. 12.60 lakhs is payable as environmental compensation in lieu of illegal disposal of fly ash in CRZ area (**For Compliance - Refer: Para 34-35 @ pg. 815 and Annexure 23 @ pg. 1031 of the Additional Affidavit of Respondent No 6**). The Respondent No. 6 has paid the compensation amount of Rs. 12.60 Lakhs. Further the Respondent 6 has filed report dated 20.05.2020 of renowned govt approved organization ATIRA, which states that R-6 is efficiently managing the fly ash and disposing off generated fly ash to cement suppliers on day to day basis. (**For Compliance - Refer: Para 21-22 @ pg. 809 and Annexure- 14 @ pg. 943 Conclusions @pg. 948**).
- (ii) At present, the unit does not have NOC from CGWA for withdrawal of saline ground water but their application for renewal of NOC is in-process at CGWA. It is pertinent to note that CGWA has issued NOC for ground water abstraction valid w.e.f. December 13, 2021 till December 12, 2024 (**For Compliance - Refer: Para 36-38 @pg. 815-816 and Annexure 25 @ pg. 1136-1137 of the Additional Affidavit of Respondent No 6**).
- (iii) Based on present condition, there is no alternative sources of water for plant other than GWIL and saline groundwater. GWIL water supply is designed for domestic and industrial use. However, the unit should consider seawater desalination plant as consistent source (with time targeted action plan submission and implementation) and gradually reduce their dependency on existing source namely GWIL and ground water. This will not only improve availability of water for common citizen by GWIL but also positively impact groundwater (**For Compliance - Refer: Para 39-41 @ pg. 816 and Annexure 26-27 @ pg. 1138-1148 of the Additional Affidavit of Respondent No 6**).
- (iv) The unit should install desulphurization system and augment ESP for captive power plant boiler as it uses lignite resulting in exceeding emissions w.r.t. standards prescribed from the power plant stack (**For Compliance - Refer: Para 42-45 @ pg. 817 and Annexure 28-29 @ pg. 1149-1167 of the Additional Affidavit of Respondent No 6**).
- (v) The unit should effectively take measures to control fugitive emissions with time targeted action plan in the process area, improve raw material storage area by wind breaking wall or three tier

plantation and improve solid waste utilization to achieve 100% use of ash and slag. Scope exists in terms of concrete block manufacturing and use in infrastructure projects apart from cement industry (For Compliance - Refer: Para 46-48 @ pg. 817-818 and Annexure 30-31 @ pg. 1168-1176 of the Additional Affidavit of Respondent No 6).

- (vi) Dry fog system should be installed all along the conveyor belt and fogger system should be used at all fugitive emission vulnerable sources instead of water sprinkling through tankers. Improved housekeeping clubbed with fogger guns will be more sustainable and effective than heavy water consuming vehicle mounted sprinklers or fixed sprinklers (For Compliance - Refer: Para 49-50 @ pg. 818 and Annexure 32 @ pg. 1177-1181 of the Additional Affidavit of Respondent No 6).
- (vii) The transfer junctions of all conveyor belts and material transfer points should be provided with dust extraction system (For Compliance - Refer: Para 51-52 @ pg. 818-819 and Annexure 33 @ pg. 1182-1183 of the Additional Affidavit of Respondent No 6).
- (viii) Three tier plantation all along the plant boundary is required to contain the fugitive emissions (For Compliance - Refer: Para 53 @ pg. 819 and Annexure 34 @ pg. 1184-1186 of the Additional Affidavit of Respondent No 6).
- (ix) Construct concreted boundary wall all along the existing fly ash dump area and reduce dependency on land disposal of fly ash. (For Compliance - Refer: Para 54 @ pg. 819 of the Additional Affidavit of Respondent No 6).
- (x) Install Sewage treatment plant comprising of at least primary and secondary treatment so that treated sewage can be reused (For Compliance - Refer: Para 55 @ pg. 819 and Annexure 35 @ pg. 1187-1188 of the Additional Affidavit of Respondent No 6).
- (xi) Rainwater harvesting may be practiced by the unit (For Compliance - Refer: Para 56-58 @ pg. 819-820 and Annexure 36 @ pg. 1189 of the Additional Affidavit of Respondent No 6).

5. It is humbly submitted that the Respondent No. 6 has taken all the necessary measures in compliance to the conclusions passed in the Joint Committee

Report. The same has been submitted by the Respondent No. 6 to the Hon'ble Tribunal by way of a progress report dated October 10, 2022 and the Additional Affidavit dated December 13, 2022. It is humbly submitted that GPCB / Respondent No. 2 has issued the latest revocation order dated December 13, 2022 for six months in view of the compliances made by Respondent No. 6 (Refer: @ pg. 1215-1216).

6. There is no observation by the joint committee regarding the wrong siting of the R-6 plant or any steps required to relocate the plant.
7. Respondent No. 6 has obtained all the necessary approvals and consents for operation of steel plant. The same are annexed (@Page 811 Para 29).

THE CRIMINAL ANTECEDENTS OF THE APPLICANTS AND CRIMINAL ACTS DONE BY THE APPLICANTS AND THEIR ASSOCIATES (REFER: PARA 1 @ PG. 192-196 OF THE REPLY FILED ON BEHALF OF RESPONDENT NO. 6 IN SEPTEMBER 2020)

8. The Applicants have not filed the present Original Application with clean hands. It is submitted that the Applicants have been harassing Respondent No. 6 and its employees by various means, including by unauthorizedly entering the premises of Respondent No. 6 on several occasions and illegally obstructing the Respondent from carrying out its day to day operations. The Applicants have been coercing and forcing Respondent No. 6 to purchase the land adjoining the factory of Respondent No. 6. Further, it is also pertinent to note that the Applicants forcibly entered the premises of Respondent No. 6 and created havoc by forcibly operating the machinery and boilers of the Respondent.
9. In furtherance to the above-said, Respondent No. 6 has made complaints to various authorities including the police authorities, District Collector and sought for police protection to carry out day to day activities in its factory. The said complaints are dated June 12, 2018; December 7, 2018; July 16, 2019; July 22, 2019; July 27, 2019; August 2, 2019 ; August 12, 2019; December 16, 2019 and June 16, 2020 (Refer: Para 1(e) @ pg. 195 & Annexure R-7 @ pg. 350-362 of the Reply filed on behalf of Respondent No. 6). The Hon'ble Revenue Minister instructed the Hon'ble Collector and Superintendent of Police to take appropriate action and support the Answering Respondent in construction of the compound wall (Refer: Para 1(e) @ pg. 195 & Annexure R-8 @ pg. 363 of the Reply filed on behalf of Respondent No. 6).

10. Further, the Applicants have repeatedly tampered with and obstructed the usage of water by Respondent No. 6, which is obtained by a way of a pipeline linked to the Narmada. Respondent No. 6 has complained regarding such obstruction of water to various authorities by letters dated May 24, 2019 and August 2, 2019 (*Refer: Para 1(f) @ pg. 196 & Annexure R-9 @ pg. 364-365 of the Reply filed on behalf of Respondent No. 6*).

JUDGEMENT TITLED ANIRUDH REDDY VS. UNION OF INDIA NOT APPLICABLE IN FACTS OF PRESENT CASE.

11. The case of *Anirudh Reddy vs. Union of India* dated September 28, 2022 (“**Anirudh Reddy Judgment**”) passed by Hon’ble Tribunal South Zone is not applicable to the present case and was passed in circumstances specific to the State of Telangana.
12. It is submitted that Respondent No. 6’s manufacturing facility was established pursuant to a Memorandum of Understanding (“**MOU**”) dated January 15, 2005 entered into with the Government of Gujarat under the Vibrant Gujarat for re-development of Kutch. As per the MOU, the Government of Gujarat had allocated land for establishment of steel plant in the village of Bharapur, Kutch District, Gujarat. The said land had been allotted to the Respondent No. 6 in a heavy industrial zone as had been declared by the State Government. The copy of the MOU dated January 13, 2005 has already been annexed as **Annexure R-1 at pages 219 to 222** with the reply dated September 1, 2020 filed by the Respondent No. 6 and also **@ Pages 821-824 of Additional Affidavit filed by Respondent No. 6.**
13. The Siting Guidelines as made applicable in the *Anirudh Reddy* judgment and alleged by the Applicants to be non-complied by the Respondent No. 6 were introduced in the year 2008 pursuant to the setting up of plant of Respondent No. 6. The Siting Guidelines are not applicable to present case as the Respondent No. 6 was allocated the land for establishment of steel plant in 2005 in a heavy industrial zone, which was not suitable for habitation and was not a residential area. It is further submitted that the land allocated to the Respondent No. 6 was not an agricultural area or a residential area and therefore, Respondent No. 6 should not be made to shift or relocate its plant in terms of the Siting Guidelines. The *Anirudh Reddy* judgement is therefore not applicable in the present case.
14. It is further submitted that the Siting Guidelines issued by the CPCB were not issued either under Section 3 r/w Section 5 of the Environment (Protection) Act, 1986 or under Section 18 of the Water (Prevention and Control of Pollution)

Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. This fact has been admitted by the CPCB in the Anirudh Reddy Judgment at para 85, pg. 67.

15. It is further submitted that the Siting Guidelines are only applicable to new plants or plants set up after 2008, when the Siting Guidelines were introduced. The Siting Guidelines are not applicable to old plants established before 2008. Respondent No. 6 set up its plant in 2005 after signing the MOU with the State of Gujarat. (Refer Para 11 @ Page 122)
16. The Anirudh Reddy judgment is therefore not applicable in the facts of the present case and is not binding on this Hon'ble Tribunal.
17. The Applicants without amending the present Original Application are seeking additional reliefs and have filed material on record which was not part of the present Original Application. Such a procedure should not be permitted, and the Original Application deserves dismissal on this ground alone. Further the Prayer 2 of cancellation of Environmental Clearance granted to Respondent No. 6 is not maintainable by way of the present Original Application. Further there is no violation of the conditions of the EC.
18. In view thereof, it is humbly submitted that Respondent No. 6 has complied with all the guidelines and environmental norms. The present Original Application filed by the Applicants is only a arm-twisting tactic to pressurise the Respondent No. 6 to buy water from them and engage them for transporting infrastructure and therefore, the Original Application deserves to be disposed off and no prayers as sought by the Applicants be granted by this Hon'ble Tribunal.

Through:



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PLACE: PUNE

DATE: 05/04/2023

Anand Vishwakarma, Ritu

From: Anand Vishwakarma, Ritu
Sent: 05 April 2023 15:06
To: 'mansi@eldfindia.com'; 'anirudhh1448@gmail.com'; 'atuljpathak@gmail.com'; 'maulik@nanavati.com'
Cc: Attri, Sumit; Chand, Tara
Subject: Written submissions on behalf of Respondent No. 6 in OA No. 104 of 2019 before NGT Pune Bench
Attachments: Written submissions on behalf of R6 in OA 104 of 2019.pdf

Dear All,

Please find attached by way of advance service, the written submissions being filed on behalf of Respondent No. 6 i.e. SAL Steel Limited in OA No. 104 of 2019 before the Hon'ble NGT, Pune Bench.

Kindly acknowledge the receipt of email.

Warm regards,
Ritu Anand Vishwakarma
Counsel for Respondent No. 6
i/b Cyril Amarchand Mangaldas