

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

ORIGINAL APPLICATION NO. 670 of 2016

1. CONSERVATION ACTION TRUST

5 Sahakar Bhavan, 1st Floor,
LBS Marg, Narayan Nagar, Ghatkopar (West)
Mumbai 400086

2. MR. DEBI GOENKA

B 502, Glengate,
Hiranandani Gardens, Powai जयते
Mumbai 400076

.....Applicant

1. MINISTRY OF COAL

Through its secretary
A-Wing, Shastri Bhawan

2. UNION OF INDIA

Through its secretary
Ministry of Environment, Forests and Climate
Indira Paryavaran Bhawan,
Jor Bagh Road
New Delhi-110003

3. CENTRAL POLLUTION CONTROL BOARD

Through its Secretary
Parivesh Bhawan, CBD-cum-Office Complex
East Arjun Nagar,
Delhi-110032

4. MAHARASHTRA POLLUTION CONTROL BOARD

Through its Member Secretary
Maharashtra Pollution Control Board,
Kalpataru Point, 3rd and 4th floor,
Opp. Cine Planet, Sion Circle,
Mumbai-400022

5. CHATTISGARH POLLUTION CONTROL BOARD
Through its Member Secretary
Commercial Complex
Chhattisgarh Housing Board Colony,
Kabir Nagar, Raipur (C.G.)
6. ANDRA PRADESH POLLUTION CONTROL BOARD
Through its Member Secretary
Andhra Pradesh Pollution Control Board
Payavaran Bhawan, A-III, Industrial Estate, Sanath Nagar
Hyderabad-A.P
7. TELANGANA STATE POLLUTION CONTROL BOARD
Through its Member Secretary
Paryavarana Bhawan
A-3, I.E., Sanath Nagar,
Hyderabad-500018
8. WEST BENGAL STATE POLLUTION CONTROL BOARD
Through its Member Secretary,
Paribesh Bhavan, 10A, Block-L.A.
Sectri III, Salt Lake City,
Calcutta-700098
9. TAMIL NADU STATE POLLUTION CONTROL BOARD
Through its Member Secretary,
Tamil Nadu Pollution Control Board
76 Anna, Salai Guindy,
Chennai, 600032
10. MP STATE POLLUTION CONTROL BOARD
Through its Member Secretary
E-5, Arera Colony,
Paryavarana Parisar,
Bhopal-462016
11. ODHISA SPCB
Through its Member Secretary,
Paribesh Bhawan
A/118, Nilakantha Nagar, Unit-VIII,
Bhubaneswar-751012

12. JHARKHAND SPCB
Through its Member Secretary
H.E.C,
Dhurwa,
Ranchi-834004
13. COAL INDIA LIMITED
Through its Chairman Cum Managing Director
Coal Bhawan, Premise No.- 04 MAR,
Plot No-AF-III, Action Area-1A,
New town, Rajarhat, Kolkata-700156
14. BHARAT COKING COAL LIMITED
Through its Chairman Cum Managing Director,
Koyla Bhawan,
Koyla Nagar,
Dhanbad-826005
15. WESTERN COAL FIELDS LIMITED
Through its Chairman Cum Managing Director,
Coal Estate,
Civil Lines,
Nagar-440001
16. SOUTH EASTERN COAL FIELDS LIMITED
Through its Chairman Cum Managing Director,
Seepat Road,
Bilapur-495006
17. EASTERN COAL FIELDS LIMITED
Through its Chairman Cum Managing Director,
Sanctoria,
Dsihergarh, Burdwan-713333
18. CENTRAL COAL FIELDS LIMITED
Through its Chairman Cum Managing Director,
Barbhanga House,
Cutchery Road,
Ranchi-834029
19. MAHANADI COAL FIELDS LIMITED
Through its Chairman cum Managing Director
Jagriti Vihar,
Burla,
Sambalpur-768020

20. NORTHERN COAL FIELDS LIMITED

Through its Chairman cum Managing Director,
PO-Singrauli,
Singrauli-486889(M. P)

.....Respondents

Counsel for appellant:

Mr. Ritwih Dutta and Mr. Deskit Angmo, Advocates for applicant

Counsel for Respondents:

Mr. B.V. Niren, Adv. for Respondent No. 1

Ms. Divya Prakash Pandey, Adv. for Respondent No. 2

Mr. Rajkumar, Adv. for Respondent No. 3

Mr. Mukesh Verma, and Mr. Bikas Kumar Sinha, Adv.
for Respondent no.4

Mr. Nikhil Nayyar and Ms Smriti Shah, Adv. for Respondent No.
6 & 7

Mr. R. Rakesh Sharma, adv for Respondent No. 09.

Mr. A. K. Panda and Mr. M. Paikaray, Adv. for Respondent no.11

Mr. Jayesh Gaurav, Adv. for Respondent No. 12

Mr. Anip Sachthey and Ms. Anjali Chaudhary and Mr. Vinayak
Shukla and Ms. Ria Sachehey, Adv. for Respondent no.13 to 15
& 17 to 20

Mr. R. Singh, Adv for Respondent no. 16

Ms. Yogmaya Agnihotri, Adv. for CECB

Present:

Hon'ble Dr. Justice Jawad Rahim (Judicial Member)

Hon'ble Mr. Ranjan Chatterjee (Expert Member)

JUDGMENT

Per Dr. JUSTICE JAWAD RAHIM

Reserved on: 10th March, 2017

Pronounced on: 24th July, 2017

1. The applicant has invoked original jurisdiction of this Tribunal under Section 14 of the NGT Act seeking following relief:-

- a. Direct the respondents to shut down the mining operations in mines where coal fires are currently

burning, with immediate effect and first extinguish the fire completely before resuming the mining operations to prevent any mishaps.

- b. Direct the Respondents no. 13 to 20 to obtain all requisite environmental clearance.
- c. Direct the Respondents no. 13 to 20 to furnish a detailed report on the coal fires that are still burning or were burning at some point of time in any of the mines throughout the country and provide reasons for the cause of such fire and why is it not extinguished yet (in case of currently active coal mines)
- d. Direct the respondents to constitute monitoring committee that will keep track of the existing coal mine fires and ensure that effective steps are taken by each respective State to extinguish such fires. The Committee shall periodically undertake detailed site inspections and assess the contamination and damage caused to the environment and human health as a result of exposure to toxic trace elements which are released due to burning of coal mines.
- e. Direct the respondents to give a status report on the functioning of the monitoring committees of the concerned states and the steps taken by them to extinguish currently burning coal fires.

- f. Direct the respondents to prepare and lay down a detailed and time bound action plan to deal with coal mine fires containing definite measures to extinguish coal mine fires and prevent any future occurrence of such fires.
- g. Direct Respondent no. 4 to 12 to not grant any further EC to collieries for expansion of mining projects or for opening any new mining activity in areas that are in close vicinity of existing coal mines that are on fire.
- h. Direct the respondents no. 4 to 12 to monitor the Ambient air quality as laid down under the EP Act, 1986 and ensure that these standards are complied with.
- i. Direct the respondents to take urgent measures to ensure that steps are taken to prevent harmful consequences on human health and environment as a result of coal mine fires and adequately compensate the people affected by these fires for both the physical losses and financial losses they suffered or are suffering due to burning coal mines.
- j. Direct the respondents to consider each case of coal fire on an individual level and implement measures to deal with it on a case by case basis.

2. In support of the above relief sought, the applicant has assertively contended that there is an urgent need to address the persisting incidents of fire in coal mines. The uncontrolled

burning of coal in the coal mines in various states has become a source of serious health hazard to the people and destroys their habitation, pollutes the air and results in wastage of precious natural resources.

3. The uncontrolled burning of coal destroys the national resources and also causes rampant pollution.
4. The fire in the coal mines results in toxic residue of gases and use of coal in the power plant is yet another eminent threat to the environment.
5. Fire in coal mines and burning of coal may be by natural causes but presently, it is more a man-made cause.
6. The applicant has highlighted the huge quantity of loss of coal every year due to fire in the coal mines and has relied on the data available on Bharat Coking Coal Website. The applicant holds and alleges such unjustifiable destruction of natural wealth and causation of severe impact on the environment is due to total neglect of the Government in enforcing the law relating to such incidents and also the settled precautionary measures. To bring home the points, he has relied upon several articles including that of Mr. Ranvijay Singh titled "Spontaneous heating and fire in coal mines". According to this article, 75% of fire in coal mines in India takes place due to spontaneous combustion in the underground coal mines and also in the open cast mines, stock piles and also during transportation. Report from the US Geological Survey "Emission from Coal fires and their impact on Environment" is also relied.

7. To gain further support he has placed reliance on the report of R. K. Finkleman's article titled "Potential Health Impacts of Burning Coal Beds and Waste Banks".
8. According to the Applicant, 37 million tonnes of coal is lost due to fire at Jharia Coal field which was worth billions of dollars. The article dated 16th May, 2014 in the Hindu on this issue estimates that close to 10 million people are being employed in excavating section of mining. According to the Hindu Newspaper article 12, 000 persons die every year from various causes including roof collapse, explosion, fire and other underground natural calamities. The report "Coal Kills - An assessment of death and disease caused by India's dirtiest energy source" estimates 80, 000 to 1,15,000 premature death and 20 million asthma cases. Several other material facts are placed by him to seek the relief detailed above.
9. On admission of this application notice was issued to respondents which includes Ministry of Coal, Union of India , Central Pollution Control Board and Pollution Control Boards of many other States including the PSU's (Public Sector Undertakings) as Respondent Nos. 14 to 20. The respondents have entered appearance through their counter raising various defense.
10. Amongst the respondents, Respondents No. 1 & 2 have not filed their replies. Respondent No. 3, 11, 12, 13-15, 17, 19 & 20 have filed their replies.

11. The contention of Respondent No. 3 is that the applicant trust has not alleged anything against the CPCB and thus there is no need to traverse the averments in the application. However, they have not denied that there is occurrence of fire in the coal mines resulting in destruction of natural resources and adversely affecting the environment.
12. The Respondent No. 11- Odisha State Pollution Control Board while denying the averments in the application admits that there are 28 coal mines operated by Mahanadi Coal fields Ltd (MCL) in the State. However its contention is that Orissa State Pollution Control Board has issued direction for strict compliance of all measures to prevent coal fire and directions not to adopt conventional methods but coal deploying surface miners for removal of residual coal and other necessary precautionary measures. It claims that because of the efforts of Respondent No. 11 the ambient air quality has improved and they have installed two Ambient Air quality Monitoring Stations. The data collected from stations is analysed and appropriate remedial action is taken.
13. Respondent No. 12-Jharkhand State Pollution Control Board does not dispute the averments in the application regarding the coal mines fires and admits that they have 167 coal mine projects in the State of Jharkhand and out of which some mines of BCCL have caught fire in the underground coal mines. Strangely, the Respondent No. 12 admits, it has not stipulated any condition in the CTO (consent to operate) granted to coal

mining projects regarding mitigation of emissions caused due to underground coal mine fire, surface coal fire or coal stockpile and other incidents of fire. However, they content that the Director General of Mines Safety is a competent agency to deal with such situation.

14. Respondent No. 13 referring to W.P.C No. 381/1997 submit that a comprehensive writ petition has been instituted before the Hon'ble Supreme Court, invoking Article 32 of the Constitution and the Hon'ble Supreme Court is presently seized of the matter. According to these respondents several issues have been raised before the Hon'ble Supreme Court relating to fire in coal mines, rehabilitation of people, subsidence of soil etc. The Hon'ble Supreme Court has issued mandamus to the States, Union of India and has been monitoring the issues. They have quoted the instance of fire in Jharia and Raniganj mines resulting in 66.7 crores expenditure sanctioned for rehabilitation and work stabilization. Thus they contend that this application is not maintainable in view of the Hon'ble Supreme Court being seized of the issues.

15. Respondent No. 13 & 15 further contend that in response to several directions issues by the Hon'ble Supreme Court, the Union of India has submitted various reports and they have placed reliance on those reports.

16. We have heard the learned counsel for the applicant and the learned counsel representing respondents and perused the records in supplementation thereto.

17. We need not refer to the details incorporated by the applicant in the application relating to incidents of fire in the coal mines and its adverse effect for the reason that there is no serious dispute on the factual aspect by any of the Respondents.
18. We have also given due credence to the submission of each side and the reports submitted by Union of India and its action plan submitted to Hon'ble Supreme Court in W.P.C. No. 381/1997.
19. We had directed the learned counsel appearing for Respondent No. 13 to 17 to place before this Tribunal the details of the proceedings before the Hon'ble Supreme Court. They have filed copies of various orders beginning from the year 2002. After perusing the orders passed by Hon'ble Supreme Court, the order passed in the year 2002, is relevant. It reads:-

“This Public Interest Litigation is for ensurement of safety of the people living in the coalfields area. Pursuant to the earlier order of this court or independently, several committees have been constituted indicating several appropriate safety measures to be taken by different parties. As it appears, affidavits have also been filed by the State of West Bengal, State of Bihar, the Union of India and the Ministry of Coal and also the Coal companies indicating what steps they have taken and further indicating the expenses involved to carry out of the safety measures indicated in several committees' reports. The Coalfield, which was earlier in the State of Bihar is now within state of Jharkhand. The State of Jharkhand is directed to file its affidavit within four weeks from today. The counsel for the Union of India is directed to file an up-to-date affidavit indicating the latest status and also the counsel is directed to file in a tabular form the necessary safeguards indicated in final report as well as different steps taken by the State Governments and Coal companies so that the court would be in a position to appreciate the steps, already taken and to issue further directions, if any, in the matter.”

20. It is not in dispute from time to time Supreme Court has passed similar kind of orders and all are material to our purpose.
21. In view of the fact that Hon'ble Supreme Court has issued several directions from time to time and is still seized of the matter and is monitoring the issues which the applicant has raised in this case, we accept the request of Respondent No. 13 to 17 that it will be desirable to await further orders of Hon'ble Supreme Court and if in the proceeding before the Hon'ble Supreme Court any issue which the applicant wants to be raised, has not been brought for consideration, then applicant may pursue independent action.
22. Being of this view, we are satisfied that at this stage entertaining this application when the Hon'ble Supreme Court is dealing with larger issues and has been passing effective order and implementing the directions, it will not be proper to proceed with parallel proceeding in this case.
23. Hence, we dispose of this application reserving liberty of the applicant to move this Tribunal once again in case issues raised by the applicant finds no redressal in the judgment of the Hon'ble Supreme Court.
24. With this observation this application is disposed off, with no order as to costs.

....., JM
(Dr. Justice Jawad Rahim)

....., EM
(Ranjan Chatterjee)