

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

(By Video Conferencing)

Execution Application No. 05/2018 (THC)
IN
Original Application No. 40/2014
AND

I.A. No. 168/2020
(Filed on behalf of the applicant for seeking compensation)
AND

I.A. No. 174/2020
(Filed on behalf of the Respondent No. 2, Aegis Logistics Limited,
for directions)
AND

I.A. No. 197/2020
(Filed on behalf of the Respondent No. 9, BPCL for directions)
AND

I.A. No. 200/2020
(Filed on behalf of the Respondent No. 10, HPCL for directions)
(With report dated 18.03.2020)

Charudatt Koli

Applicant(s)

Versus

M/s Sea Lord Containers Ltd.

Respondent(s)

Date of hearing: 30.06.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

Applicant(s): Mr. Nikhil Nayyar, Senior Advocate alongwith Mr. Sangram Singh,
R. Bhonsle, Ms. Samridhi S. Jain, Advocates

Applicant(s): Mr. Atmaram N.S. Nadkarni, Senior Advocate with Mr. Rajat
Naveet, Advocate for BPCL, R-9
Mr. Maninder Singh, Senior Advocate with Mr. Rajendra Barot,
Advocate for R-2
Mr. Krishnan Venugopal, Senior Advocate with Mr. Sanjay Kapur,
Advocate for HPCL, R-10
Ms. Liz Mathew, Advocate for R-1
Mr. Raj Kumar, Advocate for CPCB

ORDER

1. The issue for consideration is the remedial steps to be taken for control of air pollution in the outskirts of Mumbai, at and around villages Ambapada and Mahul. The major contributors to the air pollution are said to be the logistic services, storing oil, gas and chemical items, as well as oil companies releasing emissions. The emissions include Volatile Organic Compounds (“VOCs”) on account of loading, storage and unloading operations of hazardous chemicals at various stages.

2. The matter was dealt with by the judgment of this Tribunal dated 18.12.2015. It was found that there was deterioration of ambient air quality causing threat to health of the residents. Probable sources are activities of respondent No. 1, M/s Sea Lord Containers Limited, respondent no. 2, Aegis Logistics Limited, respondent no. 9, Bharat Petroleum Corporation Limited and respondent no. 10, Hindustan Petroleum Corporation Limited, besides other unidentified sources.

3. Accordingly, the Tribunal vide order dated 18.12.2015 directed the Maharashtra Pollution Control Board (“MPCB”) to prepare a comprehensive action plan for control of air pollution. Health Impact Assessment study was directed to be carried out, apart from VOC assessment study. The Tribunal issued other incidental directions for prevention and remedial action by the operators of various projects as well as regulatory authorities.

4. An execution application being EA5/2018 was filed before this Tribunal alleging non-compliance of the direction dated 18.12.2015 which was taken up for consideration on 05.02.2019, in light of earlier

proceedings. The Tribunal considered the report of the joint Committee dated 01.01.2019, finding damage to the air quality by VOC emissions and suggesting steps for control of VOCs. The Tribunal directed remedial action and assessment of compensation on polluter pays principle. An action plan was required to be submitted by the respondents emitting VOCs to the Central Pollution Control Board (“CPCB”) so that CPCB could give its comments in the matter.

5. Thereafter the matter was further considered on 07.03.2019. Action plans filed by the Respondent Nos. 1, 2, 9 and 10 were considered and were directed to be executed alongwith observations/ directions of CPCB. The Tribunal directed payment of interim compensation to the victims and for restoration of the environment.

6. Further order was passed on 15.07.2019 referring to the comprehensive action plan prepared by the CPCB on 27.06.2019. The Tribunal directed the CPCB to inter alia assess the value of the damage to the environment and public health and the proportion in which the amount is required to be recovered from the identified contributors. Parties could give their viewpoint and CPCB could take help of experts. Further order dated 6.11.2019 was also passed.

7. Accordingly, report dated 18.03.2020 has been filed by the CPCB fixing the environmental damage cost as follows:

“Table 4.2: Environmental Damage Cost for Individual Industries

S. No	Name of the company	Total VOC Emissions (Kg/day), based on the present level of emissions	Total VOC Emissions (t/year), based on the present level of emissions	Environmental Damage Cost (Rs. Crores/ton)	Damage Cost/year, (Rs. In Crores)	Damage Cost/year for 5 years, (Rs. In crores)	Deterr ent factor	Total damage cost payable (Rs. in Crores)
1.	HPCL	120	43.8	0.21	9.19	45.95	2	91.90
2.	BPCL	176.55	64.441	0.21	13.53	67.65	2	135.30

3.	AEGIS	376	137.24	0.21	28.82	144.1	2	288.2
4.	SEALORD	1.993	0.727	0.21	0.15	0.76	2	1.52

8. We have perused the report and considered the response of the parties thereto. We have also considered I.A. No. 168/2020 filed by the applicants seeking compensation of Rs. 1.5 crore. We have also considered I.A. No. 197/2020, I.A. No. 201/2020 and I.A. No. 174/2020 respectively filed by Respondent No. 9, Bharat Petroleum Corporation Limited (“BPCL”), Respondent No. 10, Hindustan Petroleum Corporation Limited (“HPCL”) and Respondent No. 2, Aegis Logistics Limited (“ALL”) raising objections to the CPCB report as to quantum of VOCs emitted and seeking directions to the CPCB to disclose the basis of its assessment of quantum of VOCs, which according to the said respondents is unjustified.

9. We have heard Mr. Nikhil Nayyar, Senior Advocate for applicant, Shri Atmaram N.S. Nadkarni, Senior Advocate for BPCL, Mr. Maninder Singh, Senior Advocate for Respondent No. 2 ALL, Mr. Krishnan Venugopal, Senior Advocate for HPCL, Ms. Liz Mathew, Advocate for M/s Sea Lord Containers Ltd., and Mr. Raj Kumar, Advocate for CPCB.

10. Learned Counsel for the applicants and the CPCB opposed the stand of the respondents. They point out that the estimates are based on the data furnished in response to a questionnaire as stated in the report itself.

11. Pending consideration of the respective stands with reference to the record and in the light of the submissions made, we direct CPCB to provide the basis of calculation of quantum of emissions by 13.07.2020 by e-mail, without prejudice to its stand that the basis is data furnished by the respondents themselves. The respondents are at liberty to file

their further written submissions, if any, within one week thereafter. The applicant and CPCB are also at liberty to file any further submissions till 27.7.2020. Hearing concluded except for the liberty to file further written submissions.

12. Order reserved. The order will be uploaded by 17.08.2020 after considering submissions already made and further submissions, if filed.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

June 30, 2020
EA No. 05/2020 in
OA. No. 40/2014 with
I.A. Nos. 168, 174,
197 & 201/2020
DV

