

Item No. 04

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No.98/2021/EZ

Basudeb Bar & Ors.

Applicant(s)

Versus

West Bengal Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 11.04.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

For Applicant(s) : Mr. Santanu Chakraborty, Advocate and Mr.
Abhishek Sikdar, Advocate (in virtual)

For Respondent(s): Mr. Prithwish Basu, Advocate for R-1,
Mr. Sibojyoti Chakraborty, Advocate for R-2 & 3,
Mr. Dipanjan Ghosh, Advocate for R-4,
Mr. Rajib Ray, Advocate for R-5,
Mr. Gopal Jain, Sr. Advocate a/w Mr. Amir Singh
Pasrich, Advocate for R-6

ORDER

1. Mr. Santanu Chakraborty, learned Counsel for the Applicants, is physically present in Court.
2. Mr. Prithwish Basu, learned Counsel for Respondent No.1, is physically present in Court.
3. Mr. Sibojyoti Chakraborty, learned Counsel for Respondent Nos.2 & 3, is appearing in virtual court proceedings.
4. Mr. Dipanjan Ghosh, learned Counsel for Respondent No.4, is physically present in Court.
5. Mr. Rajib Ray, learned Counsel for Respondent No.5, is physically present in Court.
6. Mr. Gopal Jain, learned Senior Counsel assisted by Mr. Amir Singh Pasrich, learned Counsel for Respondent No.6, are appearing in virtual court proceedings.

7. One affidavit in Response dated 09.04.2022 has been filed by Respondent No.6; same is taken on record.
8. The copy of this affidavit dated 09.04.2022 filed by Respondent No.6 has not been served upon the learned Counsel for the Applicant as well as other counsel for the Respondents as stated by them.
9. The learned Counsel for Respondent No.6 shall serve e-copy/soft copy of the affidavit dated 09.04.2022 upon the learned Counsel for the Applicant as well as other counsel for the Respondents within 24 hours.
10. Mr. Santanu Chakraborty, learned Counsel prays for and is granted two weeks time for filing his response/rejoinder affidavit.
11. In the previous order of the Tribunal dated 01.12.2021, the Committee had been given a Terms of Reference (ToR) for filing an Action Taken Report. However, point No. (iii) of the ToR which reads as under has not been addressed by the Committee.

“(iii) Inspect the agricultural field to assess the damage caused to soil and crops in the vicinity of the cement plant of Respondent No.6, Ambuja Cements Limited.”
12. The Inspection Report does not address itself to this aspect of this matter at all and in fact what is stated in paragraph 10 of the Inspection Report is that the proper assessment of such health and agricultural impact may be done by an expert in the field of health and agriculture.
13. We find that the District Magistrate, Howrah was a Member of the Committee constituted by the Tribunal and he should have made arrangements to get the services of a scientist from the Agricultural Department which has not been done.
14. We direct the Committee to assess the damage caused to soil and crop in the vicinity of the Respondent No.6, Unit and imposed penalty accordingly.
15. We also find that in paragraph 6 of the Inspection Report there is a reference to “contributory factors for high Particulate Matter (PM) in the ambient air which is suggested to be due to presence of Truck Terminal

adjacent to the Administrative Building of the Unit and also due to the proximity of NH-6 and resultant vehicular pollution”.

16. The Committee is therefore, directed to re-evaluated the Ambient Air Quality to determine the contribution of the Respondent No.6, Unit to the air pollution as segregated from the pollution that may be caused by the Truck Terminal and by the vehicular movement on NH-6 and thereafter, calculate the Environmental Compensation. Let this exercise be completed within a period of four weeks.
17. The Committee is also directed to take into consideration the Response filed by the Respondent No.6, Ambuja Cements Limited, to the Inspection Report of the Committee dated 31.01.2022 while submitting its fresh report.
18. **List on 19.05.2022.**

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B. Amit Sthalekar, JM

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Arun Kumar Tyagi, JM

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Saibal Dasgupta, EM

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Dr. Vijay Kulkarni, EM

April 11, 2022
Original Application No.98/2021/EZ
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