

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

**Original Application No. 211/2018
(M.A. No. 1011/2018, M.A. No. 1125/2018 & M.A. No. 1341/2018)
(Earlier O.A. No. 22/2017) (SZ)**

IN THE MATTER OF:

**Navroz Mody
Vs.
Union of India & Ors.**

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

**Present: Applicant:
Respondent No. 5**

**Ms. Meera Gopal Adv.
Mr. Pinaki Mishra, Sr. Adv. with Mr. Pravin Bahadur,
Mr. Siddharth Banthia, Mr. Kishan Rawat and Mr.
Madhan Babu, Advs.
Ms. Pusshp Gupta and Mr. Rovins Verma, Advs. for
Ministry of Environment, Forest and Climate
Change
Mr. Balendu Shekhar, Adv. with Sh. Ram Babu,
Scientist and Mr. Bhupender, L. Officer
Mr. R. Rakesh Sharma and Mr. V. Mowli, Advs. for
TNPCB and State of Tamil Nadu**

	Date and Remarks	Orders of the Tribunal
	Item No. 03 November 01, 2018 R	<p>1. Remediation of Mercury contamination which takes place on account of manufacture of Thermometers by M/s Hindustan Unilever Ltd. (HUL) at Kodaikanal is the subject matter of consideration in this application. This alarming situation was noticed in the judgment of the Hon'ble Supreme Court of India in <i>Research Foundation for Science Technology and Natural Resource Policy vs. Union of India and Ors.</i>, [(2005) 10 SCC 510].</p> <p>2. Tamil Nadu Pollution Control Board (TNPCB) closed the said unit on 23.03.2001. A working group was constituted to oversee the remediation processes. The Hon'ble Supreme Court constituted a Monitoring Committee which visited the site. HUL itself was directed to carry out remediation work. The applicant, a local resident, moved this Tribunal on 25.01.2017 objecting to the remediation work undertaken by HUL. It was also prayed that remediation procedures should be as per applicable guidelines in standards.</p>

	<p>Item No. 03</p> <p>November 01, 2018</p> <p>R</p>	<p>3. The Tribunal has considered the matter on several hearings. On 20.04.2017, HUL was permitted to go ahead with the preparatory work and to commence trial runs to be monitored by the SEC, TNPCB and Central Pollution Control Board (CPCB). The local body and the Local Area Environmental Committee (LAEC) were to be associated and samples were analyzed. On 28.08.2017, this Tribunal added three special invitees including the applicant in the LAEC.</p> <p>4. The matter was exhaustively considered on the last date with regard to the standard to be applied. The Tribunal noted that there are conflicting opinions. According to one opinion, the remediation standard to be applied was 20-25 mg/kg and according to the other, it was 6 mg/kg.</p> <p>5. In view of the statement made by learned Counsel during the hearing that experts in the field are available with IIT Delhi and IIT Madras, the Tribunal directed CPCB to obtain an expert opinion from an institute having expertise in Mercury contamination. The CPCB was also directed to examine trial results undertaken by NEERI. Accordingly, a report has been filed by the CPCB on 03.10.2018. The CPCB sought opinion from eight experts as follows:</p> <ul style="list-style-type: none">(i) Dr. Vinay A Juvekar, Professor, IIT Bombay(ii) Dr. K. K. Pant, Professor, IIT Delhi(iii) Dr. A. K. Nema, Professor, IIT Delhi(iv) Dr. Indumathi M Nambi, Professor, IIT Madras(v) Dr. A. N. Vaidya, Chief Scientist, NEERI-CSIR, Nagpur(vi) Dr. N. Manickam, Sr. Principal Scientist, IITR-CSIR, Lucknow
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<p>Item No. 03</p> <p>November 01, 2018</p> <p>R</p>	<p>(vii) Dr. Sharda Shah Peshin, Sr. Scientist, AIIMS, Delhi</p> <p>(viii) Dr. Atul Juneja, Scientist – E, Indian Council of Medical Research, Delhi.</p> <p>6. The experts held meetings on 12.09.2018 and 24.09.2018. They considered the guidance document i.e. “Development of Methodologies for National Programme for Rehabilitation of Polluted Sites in India”. Applying the guidelines to the fact situation, the experts unanimously reported that screening level of 6.6 mg/kg could not be treated as a remediation standard. The Site Specific Target Levels (SSTLs) provide for determining the risk based on hazardous constituents considering source, pathway and receptors at the sites. The CPCB considered the SSPLs values and on that basis measured the level of Mercury at the sites. It was found unnecessary to repeat the studies earlier undertaken for the following reasons:</p> <p><i>“(i) The recommended remediation value of 20 mg/kg for subject site is far less than the Dutch intervention value 36 mg/kg thus has large margin of safety.</i></p> <p><i>(ii) Repeating entire process of detailed site assessment and risk assessment may delay the process of remediation, which has been pending since the year 2006.</i></p> <p><i>(iii) Repetition of site assessment and re-evaluation of risk assessment methodology may be more of an academic interest rather than pragmatic objective of remediation. Moreover, the new set of assumptions that may be taken for re-assessment can be challenged and it may take some more time to arrive at scientific consensus on new SSTLs.</i></p> <p><i>(iv) The recommended remediation value of 25 mg/kg was reviewed by institutions like National Environmental Engineering Research Institute and Indian Institute of Technology, Delhi.</i></p> <p><i>(v) The recommended remediation value of 20 mg/kg is less than remediation target value of 22.43 mg/kg for soil suggested in a study carried out by IIT Delhi based on both human health and ecological risk assessment.</i></p>
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	<p>Item No. 03</p> <p>November 01, 2018</p> <p>R</p>	<p><i>(vi) At this stage, execution of remediation work should be of primary focus rather than conducting further studies; since the subject site remains contaminated for more than 20 years posing environmental and health risks.”</i></p> <p>7. Accordingly, the CPCB has recommended as follows:</p> <p><i>“(i)To permit remediation of mercury contaminated soil in the premises of closed thermometer factory and its adjoining areas to the recommended remediation target level of 20 mg/kg (total mercury) with valid authorization from Tamil Nadu Pollution Control Board.</i></p> <p><i>(ii)Considering the reported environmental impacts in Pambar Shola river in down gradient of closed thermometer factory, it is proposed that a detailed site assessment be carried out to ascertain the extent of contamination and if required, an ecological risk assessment study may also be carried out.”</i></p> <p>7. Learned counsel for the applicant states that the applicant has raised objection to the constitution of the Committee and filed an application before this Tribunal on 14.09.2018 alleging that four out of the eight members have conflict of the interest. NEERI had received Rs. 34 lakhs from HUL towards consultancy fees. Representative of IIT Delhi was author of a report to which the applicant had objected. The representative of IIT, Bombay had been a consultant to the HUL. Representative of IITR, Lucknow was a collaborator of HUL, as per information on the website. The applicant has suggested experts from IIT Hyderabad, from Centre for Ornithology and Nature, Coimbatore and a retired Chemical Engineer, IIT Madras.</p> <p>8. HUL in its reply filed on 01.10.2018 has opposed the objection of the applicant by submitting that engagement of NEERI was proposed by the Supreme Court Monitoring Committee (SCMC) in the year 2004 and on that account the TNPCB invited a proposal from NEERI. It does not, in any way, show any conflict of interest. IIT</p>
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	<p>Item No. 03</p> <p>November 01, 2018</p> <p>R</p>	<p>Delhi was engaged as per direction of TNPCB and the SEC which was appointed by SCMC for risk assessment study. Representative from IIT Bombay has been described as collaborator of the HUL because of his expertise on the subject. Allegation that IITR Lucknow was collaborator of HUL is also without any basis. No financial aid has ever been given by HUL to IITR Lucknow. The institute has been described as such on account of expertise of the said institute from whom various organization take opinion on the subject.</p> <p>9. We do not find any merit whatsoever in the objection of the applicant. The CPCB, under directions of this Tribunal, has selected as many as eight experts who have deliberated on the issue objectively and furnished a unanimous report. Mere fact that there was association of some of the experts as stated by the applicant will not vitiate the report and the opinion furnished by the CPCB.</p> <p>10. Moreover, there is no objection for other four experts who were also party to the opinion, accepted by the CPCB. In view of above, we accept the opinion of the CPCB. Action may now be taken in terms of the above recommendation.</p> <p>The application is disposed of.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p style="text-align: right;">01.11.2018</p>
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