

Item No. 04

Court No. 1

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

Original Application No. 817/2022

(With report dated 22.03.2023)

Suo Motu Action in Illegal Dumping of Coal at Railway  
Siding at Krishnashila, Sonbhadra

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 02.05.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Mr. Ajay Kumar Sharma, Member Secretary, UPPC

Mr. Chandra Vijay Singh, District Magistrate, Sonbhadra, UP

**ORDER**

1. Grievance in this application is against violation of environmental norms by dumping of coal in 35 bighas area in the vicinity of residential area at Krishnashila Railway siding, Bina, Shaktinagar, District Sonebhadra, UP., which is the land of the Northern Coal Field Limited. Coal has been dumped without any permission and is accumulated through illegal transportation from coal fields. The same is resulting in damage to the water bodies, contamination of ground water and air pollution. It is causing pollution by acidic water emanating from such depots as well as due to gradual and continuous burning of coal at above mentioned depots. They discharge harmful effluents directly into the atmosphere creating serious degradation of air quality in the area.

Emission of fine particulates increase due to storage of illegal coal as well as spontaneous coal combustion related harmful gases like SO<sub>2</sub> CO<sub>2</sub> and others, creating serious health issues to the local residents of the area. Illegal coal dumping/operating coal depot in open place without adopting due procedure causes havoc and serious degradation of environment both water and air pollution hence contrary to the provisions of Environmental Protection Act 1986, Water (Prevention and Control) Act, 1974 and Air Prevention and Control of Pollution Act, 1981. The Coal Mines Regulation 1957, Hazardous Waste (Management and Handling and Transboundary Movement) Rules, 2008 and Standard Operating Procedures/Guidelines as prescribed by the CPCB.

2. It is further stated that the area is part of critically polluted industrial area as per CEPI Index which is on account of operation thermal power stations, aluminum industries, chemical industries, mining industrial, cement plants and stone pressures. The area is also occupied by accumulated fly ash in the vicinity of Rihand Reservoir by NTPC Ltd., UPRVUNL, M/s Lanco Power and M/s Hindalco Industries Ltd. U.P. Disposal of ash slurry as well as Rihand Reservoir leads to silting of the Rihand Reservoir as well as contaminate the water of the Rihand Reservoir which is the only source of drinking water in the area. Due to discharge of mercury bearing brine sludge directly into the Rihand Reservoir through various streams /water bodies in past by M/s Aditya Birla Chemicals Ltd. (formerly M/s Kanoria Chemicals Ltd. U.P.), the water of the Rihand Reservoir is severely polluted. Northern Coal fields Limited and its subsidiary coal fields discharge highly contaminated water through various seems /sewages /nalas which flows directly into Rihand Reservoir containing harmful effluents. at Krishnashila Railway Station

3. The applicants have relied upon media reports in support of their case and earlier orders of this Tribunal dated 25.08.2014 in O.A. No. 276/2013, *Ashwani Kumar Dubey vs. UOI & Ors.* and subsequent orders in the said and other related matters.

4. Vide order dated 16.11.2022, on consideration of the matter, the Tribunal sought a factual report in the matter from a joint Committee headed by Regional Officer (Chief Conservator of Forest), MoEF&CC, Lucknow, Member Secretary of UP State PCB and District Magistrate, Sonbhadra. While giving the report, the Committee was required to put the violators to notice for their response, if any, before this Tribunal.

5. Accordingly, report dated 22.03.2023 has been filed to the effect that “1.0 million tonne dumped coal was seized by Local Administration and subsequently two notices were also issued. 7 claimant's claimed for the dumped coal, which was released to them by local administration. After release, around 45-50% coal is still there on site, which can be released subsequently after claimants put forward their claim”. The observations, conclusion and recommendation in the report are as follows:-

**“2.0 Major Observations:**

2.1 *Committee observed that the significant quantity of coal is dumped near railway known as Krishnasila railway siding, which is adjacent to Bina OCP of Northern Coal Field (NCL).*

2.2 *As informed Bina OCP, the Krishnashila siding is good shed railway siding under operational control/ physical possession of East Central Railway. Above land was acquired for CCL (NCL) Bina project under section 9(i) of the Coal Bearing Areas (Acquisition and Development Act, 1957 in the year 1957. The railway made request for part of this land for laying of track/railway infrastructure for Karila-Bina-Jayant (KBI) branch rail line.*

2.3 *On dated 22.03.1978, General Manager, NCL. Singrauli approved alignment of KBJ Branch line. The Railways were asked vide letter no. GM/SGR/TR land/Bina/77/53355-57*

*dated 22.03.201978 to make an adhoc payment of Rs. 2,41,000 provisionally, pending finalization of the area to be transferred/leased to the Railway. Payment of Rs. 2,41,000 was made by railway vide cheque no.8717-12 dated-22.04.1978.*

- 2.4. The matter was put up before CCL Board and the approval of the board was conveyed vide letter no. GM(P&C)/69 /CCL/Board/79/5256-58 dated 25.09.1979. Since then, the land under physical possession of East Central Railways. (Copy of letter is attached as Annexure B)*
- 2.5 Ministry of Energy, department of coal was requested for approval for leasing out 105.81 Acre of Land to Eastern Railway vide letter no. SGR/REV/IV-1/88/1288 dated 24.10 1988 with due approval of CMD, NCL. The land could not be transferred to railways as the said land has been vested to NCL under CBA Act 1957.*
- 2.6 The siding was used by different coal consumers for transporting of coal through rail mode purchased from various mines of NCL. The handling of coal beyond the mine barrier is sole responsibility of the purchaser under FSA, NCL has no jurisdiction either over the activities at good shed siding of Railways or over the coal stacked at the good shed siding by the purchasers.*
- 2.7 As per Google satellite image the area of the coal stockpile is around 19 ha (in acre 46), which include significant water body (around 2 ha.). Copy of image has been annexed as Annexure No. C.*
- 2.8 Spontaneous combustion in coal stockpile has also been observed in various patches, which significantly deteriorate the local air quality.*
- 2.9 Spontaneous combustion in coal stockpile is mainly propagated by low temperature oxidation, which is common in cold weather. Such fire release various gasses to atmosphere namely methane (CH<sub>4</sub>), carbon mono oxide (CO), carbon di oxide (CO<sub>2</sub>) etc along with soot particle. During foggy weather (specially in month of late November to early February), movement of such parcel (gasses) are restricted within the lower atmosphere, due to inversion situation,*
- 2.10 In addition to Spontaneous combustion in coal stockpile dust emission in area in question is also very high due to heavy dust lying (more than 6 inches) on the way to reach the coal dumping site and construction of the new railway line is also going on the area of concern.*
- 2.11 Committee requested to UPPCB to conduct ambient air quality monitoring in area in question. Analysis report depicted that the values of PM<sub>10</sub>, is 460 Ng/m<sup>3</sup> , which is approx.5 times more than the permissible limit of 100 Ng/m<sup>3</sup> . Report attached as Annexure D.*

- 2.12 *Release of such gases to the environment, may severely affect flora and fauna health and its safety due to their toxicity and flammability. Few residential quarters are noticed within the vicinity.*
- 2.13 *Land slope of coal stockpile shows that the water body within the area carry all surface runoff during rainy time etc. which passes below the railway track and finally meets to Rihand reservoir and pollute its quality. The distance of Rihand reservoir from coal stockpile is around is around 2.5 km. which is also evident from Goggle satellite image, annexed as Annexure No. F,*
- 2.14 *Committee directed to UPPCB to conduct surface water quality monitoring in area in question. Analysis report depicted that the values of all parameters are found within the permissible limit. Analysis report is attached as Annexure F.*
- 2.15 *Google satellite image shows that the dumping of coal in Krishnasila railway siding was observed during 2017, two small patches was noticed in 2018 onwards, which was continuously increasing up to 2020. Google satellite image of 2021 is not available.*
- 2.16 *Google satellite image shows that the significant coal stockpile was observed in year, Dec. 2022 in area in question.*
- 2.17 *As per information provided by the Mining office, Sonbhadra vide letter dated 03.03.2023 and 15.03.2023 to state that approx. 2, 97,561.252 metric ton coal was dumped at area in question and 2, 63,296.64 metric ton coal was claimed by different companies, approx. 1. 68,324.402 metric tonn seized coal was released to 13 claimant since Nov, 2022 to Feb, 2023 and 1, 29,236.85 metric ton coal is still present at area in question. Detailed list along with quantity of coal and date of release is enclosed as Annexure G, A and B.*
- 2.18 *No control system has been observed to control the spontaneous combustion of coal either by NCL, Railways, Claimants, coal handling agent (transporter) etc. even though the area in question come under the Critically Polluted Area (CPA) as per CEPI score,*
- 2.19 *It has been found that the two CAAQMS namely, Kakri OCP-VTC is approx. 1 Km towards north and Bina OCP is approx. 2 KM towards South-East. Data of nearest CAAQMS i.e., Kakri OCP-VTC depicted that the values of SPM and RSPM are found within the permissible limit during March 2022 to Dec 2022 (Quarter wise) report attached as Annexure H.*
- 2.20 *Photographs taken during the site inspection are attached as Annexure I.*

### **3.0 Conclusion:**

*Based on the above observation committee is of view that the dumping of coal in Krishnasila railway siding was started in way back in 2018 onwards, which was continuously increasing up to 2020-2021. It seems that the dumping of coal on above railway siding was made without any measures like, control measure of coal fire, surface runoff, leaching, height of bunds etc. No measures have been observed to control the spontaneous combustion of coal either by NCL, Railways, Claimants, coal handling agent (transporter) etc. The area come under the Critically Polluted Area (CPA) as per CEPI score, which is also evident by the values of PM<sub>10</sub> reported by UPPCB which was 460 µg/m<sup>3</sup> in month of December, of area in question, where possibility of air parcel movement are restricted within the ground due to inversion situation and subsequently more lethal to human. As reported above that the surface water pond/channel are also located very close to area in question, there is possibility to deteriorate its quality specially during rainy season, which finally merged to Rihand reservoir.*

### **4.0 Committee Recommendation**

- 4.1 *State government thorough Pollution Control Board and Mining Department may review the complete process of coal dumping/handling issues on railway siding and to formulate guideline and also to fix the responsibility of concern under various prevailing acts like Water, Air act etc..*
  - 4.2 *Environmental compensation (EC) may also be imposed to claimants,*
  - 4.3 *The amount collected under Environmental compensation by claimant's can only be utilize for betterment of the local area including construction of cemented road with both side tree plantation, setting of fixed water sprinkler on various locations etc. to control/minimize further dust emission,*
  - 4.4 *As the area in question also comes under the Critically Polluted Area (CPA) as per CEPI score therefore necessary steps may be taken by UPPCB to avoid such incident in future,*
  - 4.5 *Local administration can ensure the cemented road can only be used for the transportation of coal from mine to railway siding, to avoid further road dust emission,*
  - 4.6 *State mining department can equipped with drone facility and necessary monitoring of the entire area can be done monthly basis to avoid such repetition in coming future.*
  - 4.7 *Conservation of the surface water body available near the coal stockpile need to be protected by constructing the siltation pond in between coal stockpile and water body etc.”*
6. State PCB has also filed letter dated 25.03.2023 in continuation of the report to the effect that **at present 1,29,236.85 MT coal is still**

**present at the site, Google satellite image shows that the dumping of coal in Krishnasila railway siding was not observed during 2017, two small patches was noticed in 2018 onwards, which was continuously increasing up to 2020.** Google satellite image of 2021 is not available. Google satellite Image shows that the significant coal stockpile was observed in year, Dec, 2022 in area in question. The area in question comes under jurisdiction of M/s Northern Coalfield Ltd, Bina Project, Bina, Sonbhadra, **Due to spontaneous combustion of coal, ambient air quality of the area is being affected. UPPCB conducted ambient air quality monitoring in area in question. Analysis report depicted that the values of PM10 is 460 µg/m<sup>3</sup>, which is approx. 5 time more than the permissible limit of 100 µg/m<sup>3</sup>. It reveals that M/s NCL, Bina Project, Bina, Sonbhadra is not complying with the provisions of Air (Prevention and Control of Pollution) Act 1981 as amended.** Therefore, U.P. Pollution Control Board has imposed Environmental Compensation of Rs. 4,43,40000/- for defaulting period against M/s Northern Coalfield Ltd, Bina Project, Bina, Sonbhadra vide letter dated 25.03.2023.

7. We have considered the matter and heard Member Secretary, State PCB, present in person.

8. It is clear from the report that there is violation of environmental norms in dumping coal to the detriment of environment and public health. Accountability of such violations needs to be fixed and further degradation of environment needs to be prevented. Land in question where coal has been dumped belongs to Northern Coalfields Limited (NCL), Sonbhadra who has failed to take necessary measures to prevent air pollution. State PCB has determined compensation of Rs. 4.43 crores

against NCL applying at the rate of Rs. 30,000 per day which does not match the scientific norms for determining compensation laid down by Hon'ble Supreme Court and is inadequate.

9. Polluter Pays Principle is applicable in such cases which apart from being laid down inter alia in Vellore Citizens (1996) 5 SCC 647 is statutorily provided under section 20 of the NGT Act. Well known principles for determining compensation are extent of loss computed in monetary terms (though not always possible), cost of restoration and deterrent element having regard to financial capacity of the violators. Reference is made to MC Mehta (1987) 1 SCC 395, Sterlite (2013) 4 SCC 547, Goel Ganga (2018) 18 SCC 257. In the present case, the PCB has levied compensation on inhouse formula which does not comply with parameters laid down by the Hon'ble Supreme Court but proceeds on presumed loss per day, irrespective of nature and extent of violation, cost of restoration and financial capacity of the violators. Learned Counsel for the Applicant submits that compensation needs to be revised.

10. In the present case, the coal which was found stored was to the extent of about 3 lakhs tonnes out of which about 50% has since been lifted and remaining is still lying. Taking its value at the rate of Rs. 10,000 per tonnes, the value of stored material comes to Rs. 30,000 crores. The damage by such unscientific storing of coal has resulted in not only air pollution but also contamination of ground water and surface water. There is obvious adverse impact on public health also. Considering the cost of restoration and turnover of the transactions involved, we determine, on conservative estimated cost, the compensation to be Rs. 10 crores which may be deposited by the NCL with State PCB for restoration of environment by preparing an action plan which may include proper stocking/handling of the coal, taking measures to control dust emission



and time bound remediation. Such plan be prepared within two months with the involvement of joint Committee of CPCB, State PCB, District Magistrate, Sonbhadra and Forest Department. State PCB will be nodal agency for coordination and compliance. The Committee may also ensure that the action points relating to controlling pollution of stocking and handling of coal be done to bring down the air index in context of overall CEPI. If more amount is required for restoration, NCL will be liable to pay the same.

11. Further action taken report may be filed within two months by the State PCB by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. The Committee may also associate project proponent and other stakeholders. We also direct State PCB to put PP to notice of these proceedings for their response, if any, before this Tribunal.

List for further consideration on 07.08.2023.

A copy of this order be forwarded to CPCB, State PCB, District Magistrate, Sonbhadra and Forest Department by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 02, 2023  
Original Application No. 817/2022  
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