

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

(By Video Conferencing)

Original Application No. 236/2022

In re: News report published in the Newspaper named Indian Express, Daily News Paper dated : 4th February, 2022, Kolkata, Late City Edition titled “Non compliance of EC conditions by Kulda coal mine, Odisha & Tamnar Therman Plant, Chattisgarh”

Date of hearing: 15.07.2022

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

Respondent: Mr. Shlok Chandra, Advocate for MoEF & CC

**ORDER**

1. Proceedings have been initiated in the present matter based on media report to the effect that there is violation of environment norms, particularly the EC conditions in operation of Kulda Coal Mine, Odisha & Tamnar Thermal Plant, Chhattisgarh. It is alleged that the violations take place in the course of transportation of coal from Kulda to Tamnar in 200 dumpers of 21 tonne capacity, requiring 400 daily trips or a truck passing every 3-4 minutes, round the clock, through 14 villages with a combined population of over 15,000 as per census 2011. Construction work on a CCPC from Kulda could not be accelerated due to the non-availability of dedicated coal linkage. JPL has also planned to develop a dedicated railway siding. Pending such work, JPL will continue transportation of coal by road from Kulda. Affected villagers have complained of spike in respiratory illness and contamination of water

bodies and cropland, leading to loss of productivity and blackening of vegetables and paddy.

2. Vide order dated 30.03.2022, the Tribunal constituted a joint Committee of CPCB, State PCBs of Odisha and Chhattisgarh, Regional Officer of MoEF&CC at Bhubneshwar and District Magistrates Sundergarh (Orissa) and Raipur (Chhattisgarh) to ascertain facts and furnish a report to this Tribunal.

3. The joint Committee has filed its report dated 11.07.2022 acknowledging the violations and recommending remedial action as follows:-

***“Observations of the committee***

*During the site visit and discussions held with the project authorities the following points are noted:*

1. *With reference to the road, a meeting was called and chaired by the Collector, Sundergarh for maintenance of road as well as reduction of pollution along the settlement area in March, 2021. The collector, Sundergarh, had directed the transporters to ensure the following:*

*About 4 km of black top road has been constructed. The balance road is repaired with WBM/slag covering with pot holes. The high rising blue sheets have been installed along the boundary wall of schools in five villages to restrict noise and dust pollution. Strict adherence of proper covering of coal transport vehicle by tarpaulin. Hundred meters of distance is being maintained between the vehicles. Volunteers are deployed by the transporter on the road for proper vehicle movement and speed limit. 17 number of water tankers have been deployed for sprinkling of water on the road for suppression of dust. The coal transportation by vehicles is restricted between 6 am and 1 pm (during school hours).*

2. *The alleged road is of length about 25 km and is Major District Road(PWD road)connecting from Bankibahal chowk, Hemgir Block, Odisha to Taparia, Hamirpur, Chhattisgarh. The road in question passes through 14 nos. of revenue villages, having schools and dispensaries. Major District Road generally connects from the point of a District to State Highway and National Highway. Houses of Villagers, Schools and other social infrastructures which are located adjacent to the Road.*

3. *At present, more than 1400 nos. of heavy coal transporting vehicles (both loaded & unloaded trucks) daily passes through*

*this road. Heavy traffic of coal transportation vehicles in the major district road has affected the use of the road by villagers for their basic need purposes. The construction of conveyor belt for transportation of coal from Kulda OCP to Tamnar Thermal Plant (Jindal Power Limited (JPL) has not been made.*

4. *It has come to the notice of the committee that the road in question was in damaged condition since more than five years. Due to the damaged road condition, Villagers were facing fugitive dust problems & noise issues during plying of vehicles.*
5. *During the deliberations it was also noted that M/s JPL was the company purchasing highest quantity of coal from the Kulda mine. Apart from the JPL, the other companies that procure coal along with the quantity during the last two years are given in the list below:*

**“Road dispatch report for the FY 2021-22 (Only Raigarh Route consumers)”**

Consumer's Name	KULDA OCP		GARJANBAHAL OCP		Total		Percentage
	Dispatch Qty	Trip	Dispatch Qty	Trip	Dispatch Qty	Trip	
Bharat Aluminum Company Ltd.	83,000.00	2,721	45,943.00	1,459	1,28,943.00	4,180	<b>1.58</b>
DB Power Ltd.	2,99,975.00	9,723	2,92,565.08	9,288	5,92,540.08	19,011	<b>7.25</b>
Ind Synergy Ltd.	1,76,321.17	5,642	28,935.95	919	2,05,257.12	6,561	<b>2.51</b>
Jindal Power Ltd.	22,93,512.63	74,572	20,20,534.39	64,144	43,14,047.02	13,8716	<b>52.82</b>
Jindal Steel and Power Ltd.	7,47,177.55	24,397	3,40,926.51	10,823	10,88,104.06	35,220	<b>13.32</b>
JSW Ispat Special Products Limited	1,35,000.00	4,347	2,09,162.04	6,640	3,44,162.04	10,987	<b>4.21</b>
R K M Powergen Private Limited	1,36,702.12	4,387	68,759.76	2,183	2,05,461.88	6,570	<b>2.52</b>
Raigarh Energy Generation Ltd.	6,99,843.32	22,274	3,09,539.14	9,827	10,09,382.46	32,551	<b>12.36</b>
SKS Power Generation	95,635.87	3,118	4,3910	1,394	1,39,545.87	4,512	<b>1.71</b>
Vasundhara Power and Infrastructure	1,19,000.00	3,883	21,500.00	683	1,40,500.00	4,566	<b>1.72</b>
<b>TOTAL</b>	<b>47,86,167.66</b>	<b>1,55,514</b>	<b>33,81,775.87</b>	<b>1,07,358</b>	<b>81,67,943.53</b>	<b>2,62,872</b>	

**Road dispatch report for the FY 2021-22 (Only Raigarh Route consumers)**

Consumer's Name	KOCF		GOCF		Total		
	Dispatch Qty	Trip	Dispatch Qty	Trip	Dispatch Qty	Trip	

Bharat Aluminum Company Ltd.	13594	432	4508.35	143	18102.35	575	<b>0.24</b>
DB Power Ltd.	180000	5714	506944.71	16093	686944.71	21807	<b>9.12</b>
Ind Synergy Ltd.	207306.17	6581	30143.83	956	237450.00	7537	<b>3.15</b>
Jindal Power Ltd.	2358901.83	74886	1628317.97	51692	3987219.80	126578	<b>52.95</b>
Jindal Steel and Power Ltd.	690478.92	21920	426598.95	13542	1117077.87	35462	<b>14.84</b>
JSW Ispat Special Products Limited	17020.77	540	0.00	0	17020.77	540	<b>0.23</b>
R K M Powergen Private Limited	502069.43	15939	48000	1524	550069.43	17463	<b>7.31</b>
Raigarh Energy Generation Ltd.	222772.61	7072	256747.46	8151	479520.07	15223	<b>6.37</b>
SKS Power Generation	125194.58	3974	132000	4190	257194.58	8164	<b>3.42</b>
Vasundhara Power and Infrastructure	145279.77	4612	33813.01	1073	179092.78	5685	<b>2.38</b>
<b>TOTAL</b>	<b>44,62,618.08</b>	<b>1,41,670</b>	<b>30,67,074.28</b>	<b>97,364</b>	<b>75,29,692.36</b>	<b>2,23,034</b>	

*It is observed by the Committee that transportation of coal to the state of Chhattisgarh is being carried out through road connecting Kulda to Hamirpur passing through a number of villages. During the site visit and interaction the following points are noted*

- 1. Bankibahal Taparia road was under construction and the work of improvement of the said road for a stretch of 22.22 Km has been awarded to M/s. RKD Construction by PWD, Sundargarh for a value of Rs.118.34 Crores. At present, only 20% of the work had been completed by the contractor. The work is scheduled to be completed by January, 2024.*
- 2. It is a fact that plying of trucks carrying coal from the Kulda mine to industries in Chhattisgarh, including Tamnar Thermal Power Plant of M/s Jindal Power Limited is causing high fugitive dust emission resulting in hardship to the people of the villages located all along the road.*
- 3. There is only one road worthy of transporting the coal through the shortest distance to the state of Chhattisgarh. As on date, on an average, there about 700 trips by trucks being carried out per day for carrying coal to Chhattisgarh, apart from other trucks carrying iron ore and other minerals.*
- 4. A total of 36.48 million tonnes of coal is transported annually from the Basundhara area which includes Kulda OCP,*

Garjanbahal OCP and Basundhara West Open Cast Mine. Out of this quantity, 19.62 million tonnes of coal is transported by rail through Sardega and Kanika Railway sidings and 8.86 million tonnes is transported through road towards Raigarh in Chattisgarh.

5. Due to movement of trucks loaded with coal, it is submitted by the villagers that their health is affected. It is also submitted that the movement of the people from the villages is seriously affected including shipment of patients from villages to health centers. This is recorded in report submitted to the Hon'ble High Court of Odisha in the WP (C) No. 6587 of 2021 (Copy attached as Annexure-I).
6. During the period of Inspection, there was no movement of trucks observed on the road. It was informed that as per the Official Order of the District Collector, Sundergarh, up to 1:00 P.M, there was restriction on the movement of trucks in order to facilitate the movement of the village communities. The road condition was very poor due to development of many rut & pot holes. The condition of the road has huge potential of increasing whole body vibrations of the coal transportation vehicles and spillage of coal dust resulting heavy fugitive road dust during plying of vehicles.
7. **Accumulation of dust on the road as well as side of the road was observed which has also heavy potential of fugitive road dust during plying of vehicles. The road condition does not allow effective mechanical cleaning and hence manual effective cleaning had not been carried out regularly.**
8. It is noted that there is dust emission from the road due to plying of vehicles. It is observed that in compliance to earlier order of the Hon'ble High Court and directions issued by the District Administration, water sprinkling is being carried out on this road in areas near to the villages by the consumers of coal, primarily JPL in addition to MCL which is carrying out sprinkling of water in the buffer zone surrounding 10 kms. **However, due to summer season, it is viewed that the frequency of water sprinkling is to be increased as per the requirement.**
9. The MCL authorities should ensure that all the vehicles coming out of their control area are properly covered with Tarpaulin.

**The following points are noted:**

1. The production from the Kulda OCP is being transported from the mine site to the point of sale by M/s MCL authorities, which they claim as their sole responsibility. In the passage, it has been submitted by the project authorities M/s MCL, that there are no villages en-route to the point of sale where the responsibility of M/s MCL ends.
2. It is also submitted that presently there are two railway sidings in operations viz. Sardega railway siding and Kanika Railway siding. The

transportation from the mine site to these railway sidings is presently being carried out through four lane road constructed and being operated by M/s MCL and it is not passing through any of the villages.

The Ministry has subsequently granted EC to the proposal for expansion of Kulda Mine from 16.8 MTPA to 19.6 MTPA vide letter No. J-11015/10/1995-IA-II(M) dated 14.02.2022 in which Condition No. ix states that **“Project Proponent (PP) should not transportation of coal through road passing through any village and further ensure that its consumers of coal are also not using village road and passing through any sensitive location such as schools, hospitals, etc. PP shall take legal undertaking from its consumers accordingly”**.

It is submitted to the committee by the MCL authorities that Notices have been issued by them to the consumers or buyers for submission of legal undertaking as per the stipulated condition. However, M/s. MCL has not ensured for the compliance of the aforesaid EC condition and if not coming under their role & responsibilities, M/s. MCL has not yet submitted its representation for amendment of such EC condition.

**Recommendations:**

1. In view of the above, it is clear that the allegations made in the matter of media report regarding coal transportation by road particularly as mentioned in the EC conditions from Kulda Coal Mine, Odisha to Tamnar Thermal Plant, Chhattisgarh were substantiated.
2. The works for repair and renovation of the existing road is already in progress. Vehicles, both light and heavy are plying on the road from Kulda area to Chhattisgarh. Due to this movement of large nos. of vehicles, especially on the road under construction there **is a lot of fugitive road dust emission during plying of vehicles**. Following measures may be taken immediately by the transporters/consumers/project proponent(Coal Producer).
  - a. Accumulation of dust by the side of the road as well as along the road needs to be effectively cleaned regularly.
  - b. Speed along with PUC along with instant testing of all coal transporting vehicles may be checked on random & surprising basis by Regional Transport Officer time to time.
  - c. Frequent water sprinkling all along the roads needs to be carried out and shall be ensured for its adequate dust suppression.
  - d. Construction of road passing through or near the villages are to be made at the earliest, preferably during the 1<sup>st</sup> phase of construction on priority.

3. *Expedite the road construct work in time bound manner. Heavy Traffic in Road delays the road construction & affects the quality of work during construction phase. Till such time, coal transportation through other road routes (via NH/SH) or rail mode may be preferred.*
4. *In future, as new coal mining projects and expansion of Kulda OCP are coming, there are possibilities of increasing load of Coal transportation by Road through this route. Hence, the coal transportation road through this site shall pass all the village residential area. Pipe conveyor or other closed belt conveyor system of conveying along with silo system to the major bulk consumers (short distance) may be preferred for abatement of road dust pollution.*
5. *Rail route: The transportation of coal to Chhattisgarh is primarily through road at present. There is no railway line/connecting directly to Tanmar Thermal Power Project in Chhattisgarh. The transportation through rail may be done so as to have an environmentally safe, movement of coal, without affecting the village population residing near or all along the road.*
6. *Transportation of coal to Tamnar Thermal Power Plant through conveyor Belt had been stipulated to the project. Till date this has not been complied with. The project authorities, M/s JPL has sought extension of time for its compliance and necessary permission for transport through road. The project proponent M/s JPL should prepare an Action Plan along with the implementation schedule for construction and completion of this conveyor belt transport system of coal.*
7. *For compliance of environment quality and safety of the roads, especially with respect to water sprinkling all along the roads, a Monitoring Committee headed by a Senior Executive of MCL and comprising of executives from all the consumers/transporters may be constituted and the status of compliance as well as the progress made in this regard may be reported to the Collector of Sundergarh District and General Manager Environment, MCL on weekly basis. This would improve the existing status of environment quality.*
8. *Since the number of vehicles passing through this single road is very high, it is viewed that the traffic of plying vehicles may be reduced by:-*
  - i. *Finding alternate route, without passing through or near these villages so that the impact of transportation of vehicles is reduced on the community residing in the villages.*
  - ii. *Rail route: The transportation of coal to Chhattisgarh is primarily through road at present. There is no railway line/connecting directly to Tanmar Thermal Power*

*Project in Chhattisgarh. The transportation through rail may be done so as to have an environmentally safe, movement of coal, without affecting the village population residing near or all along the road.*

9. *For compliance of environment quality and safety of the roads, especially with respect to water sprinkling all along the roads, a Monitoring Committee headed by a Senior Executive of MCL and comprising of executives from all the consumers/transporters may be constituted and the status of compliance as well as the progress made in this regard may be reported to the Collector of Sundergarh District and General Manager Environment, MCL on weekly basis. This would improve the existing status of environment quality.*
10. *The committee was of the opinion that a long, term solution to the existing problem needs to be addressed to this problem. It was viewed that a Comprehensive Study may be undertaken through an Institution of National Repute like NEERI, etc. The study may also explore the alternate ways of transportation. The Hon'ble NGT may give necessary direction for bearing the cost of the above mentioned study.*

**Conclusion:**

*All the members of the committee agreed to the fact that the existing coal transport from Kulda to Tamnar through the road passing through the villages is not in motorable condition and has an impact on the environment, health and safety of local villagers. This road needs to be repaired and renovated at the earliest. Presently construction works are in progress and the situation has improved in comparison to past keeping in view the coal requirement by various industries in the country at present and the expansion proposals envisaged by the MCI, authorities as well as State/District authorities. It is of the view that a long term transport management plan may be prepared after in depth study in the total area keeping in view the requirement of the transportation of the coal and other commodities in the next 20 years.”*

4. We see no reason not to accept the facts found in the report and recommendations for remedial action. Accordingly, remedial action be taken in terms of the recommendations to stop further pollution and to fix liability for the past violations on 'Polluter Pays' principle. In particular, road needs to be constructed expeditiously, as recommended



by the Committee. For this purpose, the Chief Secretaries, Orissa and Chhattisgarh may hold a joint meeting along with the Project Proponents (PPs) and Members of the joint Committee, constituted by the Tribunal, within one month to work out further course of action, including apportionment of the cost for the construction for protection of the environment and enforcement of EC conditions. In case, there is no consensus in the meeting, the joint Committee may apportion the liability of the PPs of both the States so that construction of road takes place speedily. The meeting may be held within one month. It may be chaired by the Chief Secretary, Orissa. Other participants will be free to attend physically or online. The joint Committee may file an action taken report within three months 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.

List for further consideration on 18.11.2022.

A copy of this order be forwarded to the Chief Secretaries, Orissa and Chhattisgarh, CPCB, State PCBs of Odisha and Chhattisgarh, Regional Officer of MoEF&CC at Bhuvneshwar and District Magistrates Sundergarh and Raipur by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

July 15, 2022  
Original Application No. 236/2022  
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