

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

(By Video Conferencing)

Original Application No. 875/2019
(I.A. No. 67/2021 & I.A. No. 68/2021)

(With report dated 05.02.2021)

Shankarlal Prajapat

Applicant

Versus

State of Madhya Pradesh

Respondent

Date of hearing: 07.04.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent(s): Ms. Anuradha Mishra, Advocate for MPPCB.
Mr. Rajat Jariwal, Advocate in IA Nos. 67/2021 & 68/2021
(Grasim Industries Ltd.)

ORDER

1. Vide order dated 30.10.2019, a report was sought from the State PCB with reference to the allegation of pollution caused by M/s Grasim Chemical Division Limited, Birlagram, Nagada, District Ujjain, Madhya Pradesh, causing contamination of water and damage to the environment and the public health.

2. The matter was last considered on 12.10.2020 in the light of report of the State PCB dated 09.10.2020, acknowledging discharge of polluted effluents by the industries in question in Chambal river through a drain which was required to be remedied. The Tribunal found that once there was violation of law, compensation for the damage needs to be assessed and recovered on 'Polluter Pays' principle. It was also directed that since the area was polluted industrial area, stringent action was required

which should include preparation and execution of a restoration plan.

The operative part of the order is as follows:

“2. Accordingly, a report has been filed on 09.10.2020 which refers to earlier report dated 21.08.2020 to the effect that **polluted effluent was found discharged from M/s. Grasim Industries Limited (Chemical Division) and M/s. Lexus India Limited. M/s. Grasim Industries Limited (Staple Fiber Division) has taken some steps but partly treated polluted effluent is being discharged into the Chambal River through a drain. The State PCB has issued directions to stop it. The ETP will be set up by January, 2021.**

3. We find that the report is incomplete and action taken is inadequate. Once violation has been established to the satisfaction of the PCB, as in the present case, least expected is to assess the cost of damage to the environment and cost of restoration thereof and recover the same on ‘Polluter Pays’ principle for the period of non compliance. In case of any difficulty, the State PCB can take the help of any suitable expert for the purpose. This is required in addition to steps for future prevention of violation of environmental norms for enforcement of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986.

4. **‘Nagada-Ratlam’, which is the area under consideration, is one of polluted industrial clusters, having comprehensive environment pollution index (CEPI) score of 48.78 (as per data compiled by CPCB). This Tribunal has directed remedial action to bring the index within the laid down parameters in OA 1038/2018. Further, the area adjoins 16 kms. polluted river stretch of Priority-I Category of Chambal river from village Juna Nagda to village Rajgarh (identified as such by CPCB). Pollution of river and the industrial area can be remedied only if stringent action is taken against the polluting activities in the area. In this connection, this Tribunal has directed constitution of River Rejuvenation Committee in the State in OA 673/2018.**

5. In view of above, it appears to be necessary to take remedial action not only for preventing future pollution but also by recovering the cost of damage already caused, following due process of law. It has to be ensured that no polluted effluent or sewage is discharged in a water body, which is a criminal offence. **The restoration plan has to be prepared and executed, utilizing the compensation recovered, associating the community or suitable agencies. The restoration plan may relate to environment quality in the area and water quality of the river stretch in question. Health survey be conducted for requirement of potable water and improvement of ground water quality. Steps to be taken may include setting up of STPs, in-situ remediation of drains joining the river, creation of biodiversity parks. For this purpose, we direct constitution of a joint Committee of CPCB, State PCB and District Magistrate, Ujjain. State PCB will be nodal agency for coordination and compliance. The**

Committee will be free to take assistance from any other expert or organization.

6. *Let requisite steps be initiated at the earliest and completed within three months and action taken report be filed before the next date by email at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”*

3. Accordingly, further report has been filed by the State PCB on 05.02.2021 which gives the details of deficiencies found and compensation assessed. Relevant extracts from the report are as follows:

“1. M/s. Grasim Industries Limited, Viscose Staple Fibre (VSF) division, Birlagram, Nagda

Observations of Committee: *As per the record of the industry, it is observed by the committee that-*

- *The unit was complying norms prescribed by MoEF in year 1993. The MPPCB is regularly monitoring the treated wastewater, quality of the unit. However, due to complaints and deterioration of water quality in Chambal River, the MPPCB initiated action and compelled for achieving ZLD in year, 2013 by treating the wastewater upto the prescribed norms and utilizing the treated wastewater on land for irrigation. In this regards industry started action for installation of PSFs, MGFs, ROs, MSFEs etc. in year 2014 to treat the wastewater and recover the salts from the wastewater along with procurement of land for irrigation through Collector Ujjain. **As per the action plan submitted by the industry, prescribed standards were achieved in month of June, 2019 however ZLD could not be achieved due to lack of availability of land for utilization of treated wastewater. Copy of the Action Plan to achieve TDS level and respective Bank Guarantee is enclosed as Annexure-IV. For the complete ZLD, industry has submitted action plan with estimated cost of Rs. 60.0 cr for implementing complete ZLD by installing Ro, MSFEs and dryers & submitted bank guarantee of 25% cost of the project Rs. 15 cr to MPPCB, Bhopal on dated 30.11.2019 with completion of ZLD project by January, 2021. Copy of the present status of the progress on ZLD Action Plan and timeline are enclosed as Annexure-V.***
- *Central Pollution Control Board has issued direction under Section 18(1)(b) of the water (p&cp) Act 1974 to MPPCB on 19.02.2020 for the non-compliance observed in industries operating at Nagda Industrial Area. Subsequently, MPPCB has issued direction to industries on 13.05.2020 for the compliance. Copy of the CPCB & MPPCB directions are enclosed as Annexure-VI. The compliance status as on*

19.01.2021 (the day of field visit of the committee) of the specific directions are as follows:

S. No	Directions	Compliance status
1	The industry shall ensure implementation of time bound action plan for ZLD within specified time lines (January, 2021) else the bank guarantee of Rs. 15 Cr shall be forfeited.	Under progress. The implementation of ZLD action plan is ongoing. Details are enclosed as Annexure-V.
2	The industry shall install online flow meter in CS ₂ stacks to quantify the CS ₂ emission in Kg/ton of fibre and connect all the OCEMS installed at stacks with CPCB and MPPCB servers immediately.	Not complied. Industry has issued purchase order on 14.07.2020 to M/s SN Enviro Solutions, Telengana. Copy of the same is enclosed as Annexure-VII. As on 19.01.2021, industry has not installed the flow meter and not provided the link to server of MPPCB & CPCB.
3	The industries shall install PTZ camera and online flow meter at ETP area and provide connectivity to MPPCB server immediately.	Complied. Industry has provided the PTZ camera & provided the connectivity to MPPCB.
4	The hazardous waste generated from the industry shall be transported only through GPS enable transport vehicles.	Complied. The Hazardous waste is transported through MPPCB authorized GPS enabled vehicles. The WEBLINK of MPPCB authorized vehicle http://www.mppcb.mp.gov.in/Transporter%20GPS.htm Industry transports its HW i.e. Inorganic Sludge (Category 35.2) during FY 20-21 through M/s Swastik Road Line & M/s Bhatnagar Trading Corporation to cement industries for co-processing. The Spent catalyst (Cat.17.2), Used resin (Cat.35.2), Hard mass (Cat.17.1) & Residues containing oil (Cat.5.2) are sent to TSDF, Pithampur by GPS enabled vehicle of Madhya Pradesh Waste Management Project, Pithampur for disposal.
5	Industry shall keep complete track record of wastes generated in the unit and shall submit on monthly basis to Local administration to ensure vigil on illegal discharge of industrial waste in river Chambal in closed coordination with Emergency Response Centre, MPPCB, Bhopal and Sub-regional office of MPPCB, Nagda.	Complied. The Hazardous waste is transported through MPPCB authorized GPS enabled vehicles. The WEBLINK of MPPCB authorized vehicle http://www.mppcb.mp.gov.in/Transporter%20GPS.htm Industry transports its HW i.e. Inorganic Sludge (Category 35.2) during FY 20-

		21 through M/s Swastik Road Line & M/s Bhatnagar Trading Corporation to cement industries for co-processing. The Spent catalyst (Cat.17.2), Used resin 1Cat.35.2), Hard mass (Cat.17.1) & Residues containing oil (Cat.5.2) are sent to TSDF, Pithampur by GPS enabled vehicle of Madhya Pradesh Waste Management Project, Pithampur for disposal. The HW manifest submitted to respective agencies.
6	To carry out a detailed health study for Nagda region to be carried out in light of synergistic health effects of pollutants like CS ₂ , SO ₂ , H ₂ S etc. by engaging any reputed government institute working in the field of Research in Environmental Health in consultation with MPPCB and Regional Director, Health services within 6 months.	Under progress. Industry jointly with M/s Grasim Industries (CD) & M/s Lanxess India Limited has issued service order on 10.11.2020 to National Institute for Research in Environmental Health (NIREH)-ICMR, Bhopal for the health study for Nagda region. The detailed Service order is enclosed as Annexure-VIII.

2. M/s. Grasim Industries (Chemical Division), Birlagram, Nagda

Observations of Committee: As per the record of the industry, it is observed by the committee that-

- The unit was complying norms prescribed by MoEF in year 1993. The MPPCB is regularly monitoring the treated wastewater quality of the unit.
- However, due to complaints and deterioration of water quality in Chambal River, the MPPCB initiated action and compelled for achieving ZLD vide direction dated 24.10.2017 by treating the wastewater in ETP and recycling/reuse after tertiary treatment like RO, MEE and dryers. In this regards industry submitted action plan with Bank Guarantee (BG) to MPPCB in November, 2017 & started action for installation of RO, MEE and dryers in year 2017 itself and by 31.03.2018 achieved ZLD. Copy of the ZLD implementation is enclosed as Annexure-X.
- Central Pollution control Board has issued direction under Section 18(l)(b) of the Water (P&CP) Act 1974 to MPPCB on 19.02.2020 for the non-compliance observed in industries operating at Nagda Industrial Area. Subsequently, MPPCB has issued direction to industries on 13.05.2020 for the compliance. Copy of the CPCB & MPPCB directions are enclosed as Annexure-VI.' The compliance status as on 19.01.2021 (the day of field visit of the committee) of the specific directions are as follows:

S. No	Directions	Compliance status
1	Industry shall establish piezometers in proper direction of river Chambal to detect the groundwater contamination. The unit shall carry out a detailed leak detection study around the old SLF w.r.t. damage liners of old SLF leakages, to be repaired immediately for prevention of further contamination of ground water.	Complied. Industry has installed 03 piezometers in specified locations on 30/09/2020. Copy of the letter in this reference is enclosed as Annexure-XI. Industry has issued LOI & Service Order to National Environmental Engineering Research Institute (NEERI) on 22.09.2020 & 10.10.2020 respectively for leak detection study of Secured Landfill (SLF). NEERI conducted its field visit and study during 3-10 November 2020. As informed by the industry, the report is to be Received by 1 st Week of February 2021. Copy is enclosed as Annexure-XII.
2	Industry shall include their by-product acids in hazardous waste authorization immediately.	Not complied. As of now, industry has not obtained the authorization of Hazardous waste for HCl.
3	Industry shall maintain the installed PTZ camera and online flow meter at ETP area and remain connected with MPPCB server without failure.	Complied. Industry has achieved ZLD from 31.03.2018 and provided camera & flow meter connectivity to CPCB server vide letter dated 10.7.2018. Copy of the letter is enclosed as Annexure-XIII.
4	Industry in consultation with the Public Health Engineering Department, Nagda shall ensure supply drinking water immediately in affected villages along the bank of Chambal River & help PHED to identify and seal the water source where increased concentration of Lead (Pb) was found in CSIR-NEERI (2018) report.	Complied. Water supply to Villagers has been started from 24.01.2020. Copy of the same is enclosed as Annexure-XIV.
5	The hazardous waste generated from the industry shall be transported only through GPS enable transport vehicles and MPPCB shall keep a vigil on the same.	Complied. Industry has provided GPS tracking system for HCl transportation. Details are as below: Web link: https://ivts.noviretechnologies.com/IVTS/ User Name: NAGDA_HCL Password: password1
6	Industry shall keep complete track record of acid and wastes generated in the unit and shall submit on monthly basis to Local administration to ensure vigil on illegal discharge of acid-industrial waste in river Chambal in closed co-ordination with Emergency Response Centre, MPPCB, Bhopal and Sub-regional office of MPPCB, Nagda.	Complied. Industry has provided GPS tracking system for HCl transportation. Details are as below: Web link: https://ivts.noviretechnologies.com/IVTS/ User Name: NAGDA_HCL Password: password1

7	Industry shall submit plan of remediation measures of ground water contamination in Nagda & adjacent villages.	Under progress. The industries prepared the proposal for ground water remediation, based on the monitoring data of NEERI, CPCB, MPPCB & CGWA. Industry has received quotation from 03 vendors viz. M/s SS Exploration, Indore, M/s NEERI Hyderabad and M/s M P Con, Bhopal. The work related to finalizing the agency and further remediation is pending. Copy of the document related to proposal and quotations are enclosed as Annexure-XV.
8	A detailed health study for Nagda region to be carried out in light of synergistic health effects of pollutant like Cl ₂ , HCl etc. by engaging any reputed government institute working in the field of Research in Environmental Health in consultation with MPPCB and Regional Director, Health services within 6 months.	Under progress. Industry jointly with M/s Grasim Industries (SFD) & M/s Lanxess India Limited has issued service order on 10.11.2020 to National Institute for Research in Environmental Health (NIREH)-ICMR, Bhopal for the health study for Nagda region. The detailed Service order is enclosed as Annexure-VIII.

3. **M/s Lanxess India Pvt. Ltd. (LIPL), Birlagram, Nagda**

Observations of Committee: As per the record of the industry, it is observed by the committee that-

- The MPPCB is regularly monitoring the treated wastewater quality of the unit. This industry is ZLD since 30.10.2012.
- Central Pollution control Board has issued direction under section 18(1)(b) of the Water (P & CP) Act 1974 to MPPCB on 19.02.2020 for the non-compliance observed in industries operating at Nagda Industrial Area. Subsequently, MPPCB has issued direction to industries on 13.05.2020 for the compliance. Copy of the CPCB & MPPCB directions are enclosed as Annexure-VI. The compliance status as on 19.01.2021 (the day of field visit of the committee) of the specific directions are as follows:

S. No	Directions	Compliance status
1	Industry shall include their by-product acids in hazardous waste authorization immediately.	Not complied. Vide MPPCB directions letter dated 13.05.2020, industry shall dispose the HCl as per the provisions of the Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016. Industry has not complied the same. Clarification is sought from

		CPCB regarding the applicability of HCI as by-product or Hazardous waste vide letter dated 28.9.2020. CPCB vide its letter dated 11.12.2020 informed industry to approach MPPCB for identification of material as by-product in accordance with the CPCB guideline. Copy of the communication is enclosed as Annexure-XVII
2	The industry shall not operate without valid Consent to Operate and control fugitive emission/odorous in ambience of plant premises by preventing leakages.	Complied. Industry has renewed CTO on 1.10.2020. The industry operated without valid consent from 01.01.2020 to 30.09.2020.
3	Industry shall maintain the installed PTZ camera and online flow meter at ETP area and remain connected with MPPCB server without failure.	Complied. Industry has provided PTZ camera in ETP plant on 27.05.2019.
4	Industry in consultation with the Public Health Engineering Department, Nagda shall ensure supply drinking water immediately in affected villages along the bank of Chambal River & help PHED to identify and seal the water source where increased concentration of Lead (Pb) was found in CSIR-NEERI (2018) report	Complied Water supply to Villagers has been started by MP Jal Nigam from 24.01.2020 in 22 affected villages. Copy of the same is enclosed as Annexure-XIV.
5	The hazardous waste generated from the industry shall be transported only through GPS enable transport vehicles and MPPCB shall keep a vigil on the same.	Complied. Industry has enabled HCI transportation via GPS enabled tankers.
6	Industry shall keep complete track record of acid and wastes generated in the unit and shall submit on monthly basis to Local administration to ensure vigil on illegal discharge of acid/industrial waste in river Chambal in closed co-ordination with Emergency Response Centre, MPPCB, Bhopal and Sub-regional office of MPPCB, Nagda.	Complied. Same can be accessed through Weblink: www.nicerglobe.com User Id: hcltanker Password: Hcltanker#1 Further details on HCL transporter & tankers is enclosed as Annexure-XVIII
7	Industry shall submit plan of remediation measures of ground water contamination in Nagda & adjacent villages.	Under progress. The industries prepared the proposal for ground water remediation based on the monitoring data of NEERI, CPCB, MPPCB & CGWA. Industry has received

		quotation from 03 vendors viz. M/s SS Exploration, Indore, M/s NEERI Hyderabad and M/s M P Con, Bhopal. The work related to finalizing the agency and further remediation is pending. Copy of the document related to proposal and quotations are enclosed as Annexure-XV.
8	A detailed health study for Nagda region to be carried out in light of synergistic health effects of pollutant like Cl ₂ , HCI etc. by engaging any reputed government institute working in the field of Research in Environmental Health in consultation with MPPCB and Regional Director, Health services within 6 months.	Under progress. Industry jointly with M/s Grasim Industries (SFD) & M/s Lanxess India Limited has issued service order on 10.11.2020 to National Institute for Research in Environmental Health (NIREH)-ICMR, Bhopal for the health study for Nagda region. The detailed Service order is enclosed as Annexure-VIII.

Implementation status of Action Plan submitted for polluted River Stretch in NGT O.A No. 673 of 2018

Based on regular monitoring by MPPCB, Central Pollution Control Board has identified Chambal river stretch from Nagda to Rampura as polluted river stretch based on the increased level of BOD i.e. more than 30mg/l in monthly water quality monitoring data received from SPCB. The Chambal river stretch falls under Priority-I (>30mg/l BOD).

Municipal Council, Nagda submitted the status of implementation of the action plan vide letter dated 20.01.2021. Wherein it was reported that the Detailed project Report (DPR) for STP prepared and pending at Madhya Pradesh Urban Development Company Limited (MPUDC) for further tendering & others. The bio-remediation is adopted in Banbana drain, Indra Nagar Drain and Vidhya Nagar. The details are enclosed as Annexure- XIX.

The assessed environmental compensation on non-compliance of the direction is as tabulated below:

Industry	Non-compliance	Date of Direction issued	Non-compliance observed	No. Of days of non-compliance	EC in Rs.	Remarks
M/s Grasim Industries Limited, Viscose Staple Fibre (VSF) division, Birlagram, Nagda	The industry shall install online flow meter in CS2 stacks to quantify the CS2 emission in Kg/ton of fibre and connect all the OCEMS installed at	Date of MPPCB direction 13/05/2020	19.01.2021	252 days	75,60,000/-	It is delayed due to COVID-19. At present, instrument is purchased & received for installation.

	stacks with CPCB and MPPCB servers immediately					
M/s Grasim Industries (Chemical Division), Birlagram, Nagda	Industry shall include their by-product acids in hazardous waste authorization.	Date of MPPCB direction 13/05/2020	19.01.2021	252 days	75,60,000/-	Acid was in the consent as product but as per the CPCB guidelines matter is pending
M/s Lanxess India Pvt Ltd (LIPL), Birlagram, Nagda	CTO validity	Last date of validity 31/12/2019	Renewal date of CTO: 01/10/2020	274 days	82,20,000/-	Renewal of CTO was issued on 1.10.2020
	Industry shall include their by-product acids in hazardous waste authorization immediately.	Date of MPPCB direction 13/05/2020	Yet to be complied i.e. 19.01.2021	252 days	75,60,000/-	As per the CPCB guidelines matter is pending

Action Taken Report:

1. *Major industries in Nagda: The MPPCB has started action for Zero Liquid Discharge (ZLD) by the major industries in year 2011-*
 - a) *M/s Lanxess India Limited has attained ZLD in year 2012.*
 - b) *M/s Grasim Industries (Chemical Division) has attained ZLD in March, 2018.*
 - c) *M/s Grasim Industries (Staple Fibre Division) has submitted time bound action plan with Bank Guarantee of Rs. 15 Crores to attained ZLD by January, 2021 which is delayed due to Covid-19 and expected to be installed and commissioned by June, 2021 and trials and stabilization will be done by October, 2021.*
2. *Municipal Council, Nagda: Municipal Council, Nagda submitted the status of implementation of the action plan vide letter dated 20.1.2021. Wherein it was reported that the Detailed Project Report (DPR) for STP prepared and pending at Madhya Pradesh Urban Development Company Limited (MPUDC) for further tendering & others. The bio-remediation is adopted in Banbana drain, Indra Nagar Drain and Vidyanagar drain.*
3. *Ground water contamination study: MPPCB directed M/s Grasim Industries (Chemical Division) Nagda for conducting ground water pollution assessment and based on the directions, the study was done through NEERI, Nagpur and report submitted in May, 2018. Similarly, M/s Lanxess India Limited was directed to study the hydro-geological formation in the area. The study was conducted through NEERI and report submitted in September, 2019.*

4. *Ground water quality augmentation plan: The Grasim Industry (Chemical Division) jointly with M/s Grasim Industries (SFD) & M/s Lanxess India Limited prepared the proposal for ground water remediation based on the monitoring data of NEERI, CPCB, MPPCB & CGWA. Industry has received quotations from 03 vendors viz. M/s S S Exploration, Indore, M/s NEERI, Hyderabad and M/s MP Con., Bhopal. The work related to finalizing the agency and further remediation is pending. Copy of the document related to proposal and quotations are enclosed as Annexure-XV.*
5. *Health study for Nagda Region: As per the direction by MPPCB, the Grasim Industry (Chemical Division) jointly with M/s Grasim Industries to (SFD) & M/s Lanxess India Limited has issued service order on 10.11.2020 to National Institute for Research in Environmental Health (NIREH)-ICMR, Bhopal for the health study for Nagda region. The detailed service order is enclosed as Annexure-VIII. Health study is ongoing.”*

4. In view of the above, while taking the report on record, we propose to direct that State PCB to take further action in accordance with law but before doing so we consider the applications filed by M/s. Grasim Industries Limited for impleadment and for deferring the action by the State PCB, being I.A. No. 67-68/2021. We have heard Learned Counsel for the said industrial unit. His main grievance is that opportunity of hearing was not given by the joint Committee while assessing environmental compensation which is violation of natural justice. There is no statutory non-compliance as the only violation is delay in procuring the equipments which is due to Pandemic situation. The unit has engaged JM-Envirolab Pvt. Ltd. which is an authorized lab for sampling and analysis and as per analysis on 09.10.2020, the effluents are meeting the norms. Necessary equipments are now been installed. Unit has also engaged the National Institute for Research and Environment Health (NIREH) to carry out health profile of the workers which will take one year. Chemical division of the unit is also proposing Zero Liquid Discharge (ZLD). The unit has also complied with the directions of the State PCB to improve the environment. Thus, compensation of Rs. 75,60,000/- is not called for.

5. At this stage, we may note the legal position with regard to payment of compensation on polluter pays principle. Compensation is equal to loss caused or suffered. In the context of loss caused on account of polluting/hazardous activity, the issue has been discussed in several judgements. In *M. C. Mehta & Anr. v. Union of India*, (1987) 1 SCC 395, ¶ 31-32, it was laid down that the person undertaking hazardous activity is liable for damage caused irrespective of negligence. Compensation has to have relation with the financial worth of the violator so as to be deterrent. In *Indian Council for Enviro-Legal Action & Ors. v. Union of India & Ors.* (1996) 3 SCC 212, ¶ 65-67, compensation to cover cost of remediation was held to be payable. In *Vellore Citizens Welfare Forum v. UOI*, (1996) 5 SCC 647, ¶11 to 13, it was held that the polluter pays principle is part of sustainable development and has to be treated as part of Indian law, as India is party to Stockhome and Rio conferences. Reverse burden of proof is applicable and once there is damage, liability is of the person carrying on activity to prove that his activity is benign. In (2005) 13 SCC 186, *Research Foundation vs. UOI*, pr 29, T.N. *Godavarman Thirumulpad v. UOI & Ors.* (2006) 1 SCC 1, ¶ 1, 2 and *MCD v. Uphaar Tragedy Victims Association* (2011) 14 SCC 481, ¶ 99, 100 same principles were applied. In *Sterlite Industries (India) Ltd. v Union of India* (2013) 4 SCC 575, ¶ 47, liability was fixed at 100 crores. In *MC Mehta (Kant Enclave) v. Union of India*, (2018) 18 SCC 397 pr 134 compensation equal to 10% of cost of the project was directed to be recovered for construction in violation of law.

6. To address the grievance of the industrial unit of not having been heard by the Committee before assessing the compensation, we have heard learned Counsel on merits of the objections. We asked the learned Counsel whether the stand of the unit is that the violations found never

existed or whether they existed but have been remedied. His answer is later. It is patent that there were violations. **The unit was not achieving the ZLD norms in the year 2013, as required. Only in 2019, action plan was proposed but even then, ZLD was not achieved. The unit gave bank guarantee and action plan for completing ZLD by January, 2021. Even thereafter, it is in process and has not been completed as shown by the table of compliance status. Implementation of ZLD action plan is ongoing. There is also non-compliance in installing flow meter and stacks.** In these circumstances, it cannot be said that there is no statutory non-violation. The consent conditions under the Water (Prevention and Control of Pollution) Act, 1974 imposed by the State PCB are statutory. Thus, the compensation assessed cannot be held to be without any basis. I.A.s are without merit and are dismissed.

7. Further action may be taken in terms of the report of the joint Committee, following due process. The District Magistrate, Ujjain may monitor execution of action plan for ensuring compliance with the environmental norms by the industries as well as local bodies in the matter of discharge of effluents/sewage, supply of drinking water, health checkups and utilization of STP treated water. This is also necessary for rejuvenation of river Chambal which is a polluted river stretch. The District Magistrate, Ujjain may send a report to the Secretary, Environment Department, M.P. on quarterly basis to facilitate remediation of polluted river stretch in Chambal river in accordance with the directions of this Tribunal dated 22.02.2021 in OA 593/2017, *Paryavaran Suraksha Samiti & Anr. v. Union of India & Ors.* and 673/2018, *In re: News item published in "The Hindu" authored by Shri Jacob Koshy titled "More river stretches are now critically polluted: CPCB.*

The Application is disposed of.

A copy of this order be forwarded to the Secretary, Environment Department, M.P., District Magistrate, Ujjain and Nagada Nagar Nigam by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

April 07, 2021
Original Application No. 875/2019
AVT