

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

Original Application No. 533/2019  
(I.A. No. 6/2021)

(With reports dated 20.11.2020 & 04.01.2021)

Anubhav Kumar

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 28.01.2021

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

Applicant: Mr. Rahul Khurana, Advocate

Respondent: Mr. Raj Kumar, Advocate for CPCB  
Ms. Sakshi Popli, Advocate for DPCC  
Mr. Jagjit Singh, Advocate and Mr. Om Prakash, Advocate for  
Northern Railways  
Mr. Narender Pal Singh, Advocate for CRWC

**ORDER**

1. The question for consideration is the remedial action against air pollution in and around the areas of Rani Bagh, Shakurbasti, Raja Park, Punjabi Bagh, Srinagar and Madipur near Shakurbasti Railway Station, Delhi, on account of unscientific manner in which loading/unloading of cement is being undertaken.

2. The matter was earlier considered by this Tribunal on 14.08.2019 in the light of factual and action taken reports from the Delhi Pollution Control Committee (DPCC), the Station Superintendent/Terminal Manager, Central Railway Warehouse (CRWC), Cement Siding at 2

Shakurbasti Railway Station, New Delhi 110034, the Chief Goods Supervisor, Cement Siding at Shakurbasti Railway Station, New Delhi-110034. The reports revealed causing of pollution in the process of loading and unloading, without adequate safeguards.

3. This Tribunal constituted an independent Expert Committee, to further examine the matter, comprising:

- i. Dr. Prashant Gargava, Member Secretary, CPCB.
- ii. Dr. Mukesh Khare, Professor, IIT Delhi.
- iii. Dr. Mukesh Sharma, Professor, IIT Kanpur.
- iv. Member Secretary, DPCC.

4. The Tribunal further directed:

**“9. The Committee may study the problem area in terms of ambient air quality, carrying capacity, health impact on the inhabitants and the workers involved in the process and suggest remedial measures. The Committee may give its report within three months by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).**

**10. In the meanwhile, the remedial measures suggested by the DPCC may be adopted by the CRWC and the Railway Administration.”**

5. The matter was thereafter considered on 10.01.2020 in the light of the report filed on 20.12.2019 by Member Secretary, CPCB representing the joint Committee. It was observed:

“

6. *The Committee also noted:*

*Out of the five cement companies i.e. M/s ACC Cement, M/s Wonder Cement, M/s Mangalam Cement, M/s Ambuja Cement and M/s Ultratech Cement, four companies except M/s ACC Cement have not conducted any health checkup of workers. M/s ACC have also reported that only one health checkup has been conducted.*

- i. *All companies reported about distribution of masks however only M/s Ambuja Cement submitted documentary evidence in this regard. **During the site visit conducted on October 23, 2019, none of the***

**labors involved in loading of cement were found wearing Masks or Gloves.**

**ii. Out of five companies, only M/s Ambuja Cement reported with systematic plan of action to educate and provide PPE to the labor engaged in the activity of cement sacks handling.”**

**7. The report further is that in the health survey, most residents complained about dust spilling over their houses and floors and health issues related to breathing and respiratory system and skin itching/allergy. While few enrolled workers reported respiratory and skin problems, in case of daily wage workers a substantial number of workers reported respiratory and skin problems. Besides health survey, X-Ray of 15 enrolled workers was also conducted to confirm the impact on health. The most important single investigation for any worker with exposure to dust is a plain chest X-ray. X-Ray of Chest region under specifics of 17x14 inches along including both costo-phrenic angles was conducted. The changes observed on X-Ray examination, suggestive of adverse impact, include:**

- Prominent Brocho-vascular marking indicated infection that cement dust appears to have caused. The workers also complained of symptoms relating to infection, a common outcome of dust exposure.**
- Presence of Calcified node on X-ray examination that also suggested past healed infection which again dust exposure may have caused**
- Scarring of the lung tissue that indicates fibrosis has been observed as a common consequence of exposure to dust containing silica.**

**8. The conclusions and recommendations of the Committee are:**

**6. Conclusion:**

**Northern Railway has not taken any measure to control fugitive emissions generated due to cement handling and other associated activities while CRWC has taken partial measures for controlling fugitive emissions.**

**PM levels at cement siding are 31% higher than the surrounding locations and further cement dust is carried over to surrounding residential areas. Emission load of the grid of 4kmx4km is exceeding the limit and therefore control measures are to be implemented at cement siding as well as for other emission sources such as**

**transport, road dust etc contributing to the grid of 4kmx4km.**

**Further, X-ray examination of workers revealed that there is adverse health impact due to exposure to cement dust but neither M/s GS company nor cement companies has implemented any systematic plan of action to educate and protect labor engaged in the activity of cement sacks handling. No measures have been taken to monitor workers health since majority of the workers are working on adhoc basis.**

**Residents surveyed have complained about dust spilling over their houses and floors, and, health issues related to respiratory system and skin. However, health issues may not be solely attributed to pollution caused due to activities of cement siding considering that there are other localized sources of pollution also and that exposure of residents to cement is less than that of workers.**

**7. Recommendations:**

- **Northern Railway shall immediately construct warehouse for handling of cement bags so as to minimize fugitive emissions until then no cement handling shall be permitted.**
- **Mechanical handling of cement bags using conveyor belts shall be introduced by NR and CRWC in order to reduce fugitive emissions.**
- **The enclosures in the form of flexible belt curtain may be provided for the unloading sides.**
- **Warehouse cleaning shall be done with only mechanical means by NR and CRWC and it shall be done on regular basis. Cement collected shall be properly stored and records be maintained.**
- **Peripheral roads for vehicle movement should be paved and these should be properly maintained.**
- **M/s GS company shall implement a systematic plan of action to educate and protect labor engaged in the activity of cement sacks handling.**
- **All five cement companies (M/s ACC Cement, M/s Wonder Cement, M/s Mangalam Cement, M/s Ambuja Cement and M/s Ultratech Cement) shall implement a systematic plan of action to educate and protect workers engaged in the activity of cement sacks handling.**
- **There should be a system of record keeping of workers engaged in the activity of cement handling. Periodic health assessment of workers**

**should be done for workers engaged in cement handling and records shall be maintained.**

- **Test for remaining workers involved in loading and unloading activities shall be immediately got conducted through an environmental health physician and all workers detected with health impact shall be treated at the cost of M/s GS Company and Cement Companies, as applicable. CRWC and NR shall monitor compliance and submit report to DPCC and CPCB.**

**8. We are satisfied that the report needs to be acted upon and necessary steps in terms of the recommendations taken by the Northern Railways as well as by CRWC and the five cement companies, after preparing an appropriate action plan. The compliance may be monitored by Central Pollution Control Board (CPCB) and Delhi Pollution Control Committee (DPCC). The action plan may be prepared within one month and got approved by the Committee constituted by this Tribunal. The Committee will be free to make suitable alterations in the action plan. The CPCB may also access and recover compensation for the damage to the environment and public health for the period prior to the remedial action. Such interim measures as may be found necessary may also be taken by the Railway Administration as well as by the CRWC and the cement companies consistent with the ground situation and the observations in the report mentioned above. Compliance status as on 15.04.2020 may be furnished to this Tribunal after getting information from all concerned by the CPCB before the next date by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).**

*A copy of this order be sent to CPCB and DPCC by email for compliance.”*

6. Accordingly, the CPCB and the DPCC filed their further reports.

The report of the DPCC filed on 10.06.2020 was inter alia as follows:

*“...That a meeting of expert committee was held on 04.03.2020 to discuss the action plans submitted by M/s Northern Railways and M/s CRWC and cement companies. Minutes of the meeting dated 04.03.2020 are enclosed here with and annexed as Annex u re-2.annexed as Annexure-2.*

**That the expert committee has expressed dissatisfaction at the response of M/s Northern Railways which did not submit any plan for construction of warehouse at its platforms and no**

***proper plan was submitted by it in compliance of order dated 10.01.2020 of Hon'ble NGT. On action plan of M/s CRWC, expert committee expressed that the compliance report to be verified on ground by CPCB.***

***That M/s Northern Railways has failed to comply with the directions of Hon'ble Tribunal and directions issued by DPCC vide Show Cause Notice dated 30.12.202019 therefore, Directions for closure (no cements handling permitted) and imposing EDC of Rs. 1,00,00,000/- (Rupees one crore only) were issued to M/s Northern Railway on 04.06.2020. Copy of the Directions are enclosed here with and annexed as Annexure-3***

***That, M/s CRWC has also partially complied with the directions of Hon'ble Tribunal and directions issued by DPCC vide Show Cause Notice dated 30.12.202019 therefore, Directions imposing EDC of Rs. 20,00,000/- (Rupees Twenty lakhs only) and Modified Direction were issued to M/s CRWC on 04.06.2020 to comply with the Environmental norms within 45 days. Copy of the directions are enclosed here with and annexed as Annexure-4(Colly). ”***

7. The matter was last considered on 23.06.2020 in light of the report of the CPCB dated 22.06.2020 as follows:-

*“7. The report of the CPCB filed on 22.06.2020 notices certain shortcomings and makes recommendations as follows:*

**“3.1.2 Short-comings**

- A. *Revised Action plan on following other pollution control measures with timelines is still awaited from Northern Railways, despite several reminders issued by CPCB:*
1. *Construction of warehouse on both the platforms i.e. GPF and Platform No01 Enclosures in the form of flexible belt curtain may be provided for the unloading sides.*
  2. *Mechanical handling of cement bags using conveyor belts.*
  3. *Mechanical cleaning of warehouse and arrangement for proper storage of cement collected during cleaning and records to be maintained.*
  4. *Timeline for completion of road construction work has not been submitted.*
- B. *Northern Railway has continued to permit cement handling activities despite Hon'ble NGT directions. As per the log book maintained by the company, cement unloading/loading*

activity was conducted in the month of May as well as June 2020. However, during the inspection, there were no cement bags lying on the platform and hence no loading/unloading operation was observed at the site.

- C. No progress report obtained from M/s Ultratech Cement on health test of workers involved in cement handling and submitted to CPCB.

### **3.1.3 Conclusion**

**Northern Railway has not taken proper action for implementing the recommendations of the Expert Committee including both implementation of pollution control measures and health test of workers.**

### **3.1.4 Recommendations**

1. Northern Railway may be directed to submit the action plan within one week for implementation of pollution control measures.
2. Northern Railway may be directed to stop the cement handling operations with immediate effect. **Operations be resumed only after the pollution control measures recommended by the Expert Committee are implemented.**
3. Northern Railways to ensure that the test of health workers involved by M/s Ultratech Cement be got conducted after the issue of Covid-19 pandemic is settled and report be submitted to Labor Department. Delhi Government with plan of treatment of affected workers and for levy of compensation.

## **3.2 Central Railside Warehouse Ltd. (CRWC)**

CRWC vide letter dated 10.02.2020 submitted Action plan and the same was considered by the Expert Committee for implementation within the timelines proposed by the CRWC. The CRWC vide letter dated 18.4.2020 and 10.6.2020 submitted the progress report on the action plans.

### **3.2.1 Progress**

CRWC have installed conveyor belt machines for mechanical unloading/ loading of cement bags as observed during CPCB inspection conducted on 11.06.2020. However, no loading/unloading operation was ongoing at the site during the inspection. NIT (Notice Inviting Tender) for 10 more conveyor belt machines have been issued and these were to be installed within 06 months i.e. by August 2020, as per the original action plan. However, as per the progress report dated 10.6.2020, these are now expected to be delivered by August/September 2020 due to nationwide lockdown.

- CRWC has placed order for flexible PVC belt curtain enclosure for the warehouse and it was reported that the work will be completed by February end as per the original action plan. However, as per the progress report dated 10.6.2020, the work is expected to be completed within a month after lockdown period ends probably by

June end. During the inspection on 11.06.2020, the work for installation of flexible belt curtains for enclosure at both loading/unloading sides was found to be in progress. Belt curtains were installed at a few locations. Slider channels for curtains were in place on rail side of the 16 compartments/warehouses (8 on each side).

- CRWC have purchased four sweeping machines for mechanical sweeping of warehouse and the collected cement is stacked and stored separately in the cement bags within the warehouses and records are maintained. During the inspection on 11.6.2020, these machines were found operational. Also, one mini truck loaded sweeping machine is used for pavement cleaning.
- CRWC appointed M/s GS Company have got the test conducted for the remaining workers involved in cement handling and reports are to be submitted. Health awareness program conducted with training of workers and PPE distribution in the month of January and February.
- Records of workers involved in cement handling by M/s GS Company have been submitted.

### **3.2.2 Shortcomings**

1. Revised action plan to educate and protect health of labour in case of M/s GS Company yet to be submitted.
2. No progress report obtained from M/s ACC Cement, M/s Wonder Cement, M/s Mangalam Cement and M/s Ambuja Cement on health test of workers involved by these companies in cement handling and submitted to CPCB.

### **3.2.3 Conclusion**

Action has been taken by CRWC for implementing the recommendations of the Expert committee. Some of the recommendations have been implemented while work is under progress on remaining recommendations.

### **3.2.4 Recommendations**

1. CRWC may be directed to complete the remaining works within the timelines submitted in the revised progress report.
2. CRWC may be directed to ensure submission of revised action plan for education and protection of labour health by M/s GS Company within 01 week.
3. CRWC to ensure that the test of health workers involved in cement handling by M/s ACC Cement, M/s Wonder Cement, M/s Mangalam Cement and M/s Ambuja Cement be got conducted after the issue of Covid-19 pandemic is settled and report including the report of workers got tested by M/s GS Company be submitted to Labor Department. Delhi Government with plan of treatment of affected workers and for levy of compensation.



### **3.3 Cement Companies (compliance w.r.t. Workers Health)**

#### **3.3.1 M/s ACC Limited**

*The company has conducted health check-up camp on 3.3.2020 inviting random labor and other participants and labor with health problems got tested and report submitted to CPCB. As per the opinion of Dr. T.K. Joshi, Senior Advisor, Environmental Health, MoEF&CC, these reports are of limited understanding until occupational history is shared. Apart from X-ray, other tests of workers were conducted which was not related to occupational health.*

*The company has not submitted revised plan to educate and protect health of labour incorporating the Expert opinion. No record provided for the labor involved in cement handling and health tests (X-ray) of these workers.*

#### **3.3.2 M/s Ambuia Cements Ltd.**

*The company has informed about health and safety awareness camp held in January month and distribution of the masks and gloves in the month of February but no documentary evidence submitted. Random labor and other participants were invited for these camps.*

*The company has not submitted revised plan to educate and protect health of labour incorporating the Expert opinion. No records provided for the labor involved in cement handling and health tests (X-ray) of these workers.*

#### **3.3.3 M/s Wonder Cements**

*The company has not submitted revised plan to educate and protect health of labour incorporating the Expert opinion. No records provided for the labor involved in cement handling and health tests (X-ray) of these workers.*

#### **3.3.4 M/s Mangalam Cements**

*The company has informed about health awareness program and PPE distribution camp organized in the month of February/March 2020. Random labor and other participants were invited for these camps.*

*The company has not submitted revised plan to educate and protect health of labour incorporating the Expert opinion. No records provided for the labor involved in cement handling and health tests (X-ray) of these workers.*

#### **3.3.5 M/s Ultratech Cement**

*The company have informed about health awareness program and PPE distribution camp organized in the month of February 2020. Random labor and other participants were invited for these camps.*

The company has not submitted revised plan to educate and protect health of labour incorporating the Expert opinion. No records provided for the labor involved in cement handling and health tests (X-ray) of these workers.

#### **B) Recommendations w.r.t. workers health**

1. M/s GS Company and other 5 cement companies may be directed to submit revised action plan to educate and protect health of labour incorporating the Expert opinion.
2. Records to be provided for the labor involved in cement handling by all 05 cement companies.
3. Test of health workers involved by all 05 cement companies be got conducted after the issue of Covid-19 pandemic is settled and report be submitted to Labor Department, Delhi Government with plan of treatment of affected workers and for levy of compensation. M/s GS Company has got the labor test conducted and therefore shall submit the report to Labor Department.
4. All 05 cement companies and M/s GS Company to ensure that labor shall wear PPE while carrying out cement handling activities.

#### **3.4. Environmental and Health Compensation**

Hon'ble NGT directed that "The CPCB may also access and recover compensation for the damage to the environment and public health for the period prior to the remedial action".

##### **Status of Environmental Compensation**

**The Expert Committee discussed the issue of levying Environmental Compensation. It was suggested that interim EC may be levied for the period from May 27, 2019 (date of filing of application by Applicant) to June II, 2020 (date of compliance verification by CPCB). The EC methodology and calculation was discussed in the Expert Committee meeting held on 16.6.2020. Interim Environmental Compensation for the said period was calculated as Rs 71,62,500/- and Rs 28,65,000/- in case of Northern Railways and CRWC respectively.**

CPCB is issuing directions to Northern Railways and CRWC to deposit EC amount within a month. Further, Final EC will be levied on both the companies, after completion of all the remedial measures (for the period of completion of remaining works).

##### **Recommendations w.r.t. Health Compensation**

With regard to levy of health compensation, the Expert Committee has recommended that the matter be referred to Labor Department, Delhi Govt. The said department shall take necessary action as per the relevant labor laws and submit report to the Hon'ble Tribunal. Test of health workers involved by all 05 cement companies be got conducted after the issue of Covid-19 pandemic is settled and report be submitted to Labor Department, Delhi Government with plan of treatment of affected workers and for levy of compensation. M/s GS

*Company has got the labor test conducted and therefore shall submit the report to Labor Department.”*

8. *Learned counsel for the applicant has rightly pointed out that the Northern Railways has failed in its duty of taking necessary steps to prevent air pollution affecting the environment and public health. We find that the reports submitted are based on material and need to be acted upon.*

9. ***Let further action be taken by the Railways, CRWC and the Cement Companies in the light of observations in the reports. Compensation assessed may be recovered as per law. Further status and compliance report may be filed. The compensation may be recovered as an interim compensation.***

10. ***Further reports be filed on or before 31.10.2020 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”***

8. Accordingly, further report has been filed by the CPCB dated 20.11.2020 mentioning the action taken with following conclusions:-

#### **“Conclusion**

- a. *M/s CR WC has implemented the air pollution control measures, as recommended by the Expert Committee and the same has been verified by DPCC. CR WC to deposit the second/final EC amount of Rs. 4, 16,250/- (Rupees Four Lakh Sixteen Thousand Two Hundred and Fifty only).*
- b. *NR will submit the revised action plan for air pollution control measures in compliance of CPCB directions dated 29.10.2020. NR has agreed to deposit interim EC of Rs. 71,62,500/- (Rupees Seventy One Lakh Sixty Two Thousand Five Hundred only).*
- c. *Action plans for education and protection of workers' health for M/s GS & company and M/s Wonder Cement have been approved and these companies have been asked to implement the plan and submit report at regular interval to labour department or others, as applicable. M/s Wonder Cement to get the workers tested and submit test report of workers to labour department after the issue of COVID-19 is settled.*
- d. *M/s Mangalam Cement Limited has submitted the revised action plan for education and protection of workers' health, which is to be examined by the Health expert and Expert Committee*
- e. *M/s ACC Limited, M/s Ambuja Cement Limited and M/s Ultratech Cement Limited have been recommended by the Expert Committee to discuss the modalities of implementing the action plan for education and protection of workers' health with CRWC and NR, and accordingly submit the revised action plan. Regarding submission of health reports of labour, the Expert Committee had earlier recommended that the*

*cement companies shall submit the reports of workers to Labour Department, Govt. of Delhi after the issue of COVID-19 is settled. **It is submitted that the Hon'ble NGT may direct these cement companies to submit the final action plan.***

9. We have also perused further report of CPCB dated 04.01.2021 with the following conclusions: -

**“5. Conclusion**

- a. *M/s CRWC has implemented the air pollution control measures. as recommended by the Expert Committee and the same has been verified by DPCC. CRWC has deposited both interim and final environmental compensation to CPCB.*
- b. *NR has deposited interim EC of Rs. 71.62.500/- (Rupees Seventy-One Lakh Sixty-two Thousand Five Hundred only). NR has still not submitted the action plan for construction of warehouse and installation of convey or belts. Further. no timelines have been provided for completion of road construction and deployment of agency for regular cleaning of platform/siding.*
- c. *Action plans for education and protection of workers' health for M/s GS & company, M/s Wonder Cement and M/s Mangalam Cement have been approved and these companies have been asked to implement the plan and submit report at regular interval to labour department or others as applicable. M/s Wonder Cement and M/s Mangalanm Cement to get the workers tested and submit X-rays test report of workers to labour department after the issue of COVID-19 is settled.*
- d. *M/s ACC Cement has submitted its separate plan to CPCB on 31.12.2020 which is to be examined by the Health Expert. M/s ACC Cement to get the workers tested and submit X-rays test report of workers to Labour department after the issue of COVID 19 is settled*
- e. *M/s Ambuja Cement Limited and M/s Ultratech Cement have yet not submitted action plans despite repeated instructions.”*

10. We have further perused the action taken report filed by the DPCC on 28.12.2020 on the subject of recovery of compensation and I.A. No. 06/2021 filed by the Northern Railways which seeks setting aside of order of the DPCC dated 04.06.2020. The order of the DPCC is appealable but no appeal has been preferred. Moreover, there is no merit in the application as compensation was required to be imposed for violation of the environmental norms on polluter pays principle. The amount of compensation may be spent for restoration of the

environment, in coordination with the Northern Railways. The compensation has already been deposited. The Northern Railways may furnish its action plan to the CPCB and the DPCC. The Northern Railways may also take steps to seek consent as per law.

11. We take on record the status report filed by the Central Railside Warehouse Company Limited (CRWC).

The application is disposed of.

The CPCB and the DPCC may further monitor compliance of environmental norms in exercise of their statutory powers, following due process of law. The applicant will be at liberty to move the statutory regulators with any further suggestions.

A copy of this order be forwarded to the CPCB, the DPCC and the Northern Railways by e-mail for compliance.

With the above order, all pending I.A.s will also stand disposed of accordingly.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

January 28, 2021  
Original Application No. 533/2019  
(I.A. No. 6/2021)  
SN