

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

Original Application No. 453/2019

(With report dated 23.08.2019)

Anjani Jaiswal

Applicant(s)

Versus

Union of India & Ors

Respondent(s)

Date of hearing: 11.10.2019

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

For Applicant (s): Mr. Manish Tiwari, Advocate

For Respondent(s): Mr. Daleep Dhyani, Advocate for UPPCB
Mr. Shshir Prakash, Advocate for R-8&9

ORDER

1. Vide order dated 24.05.2016, this Tribunal sought a factual and action taken report from a joint Committee comprising of the Ministry of Environment, Forest and Climate Change (MoEF&CC), the Central Pollution Control Board (CPCB), the Uttar Pradesh Pollution Control Board (UPPCB) and the Madhya Pradesh Pollution Control Board (MPPCB) with reference to the allegation that Thermal Power Stations operating in the Districts of Singrauli and Sonebhadra in the States of Madhya Pradesh and Uttar Pradesh being Northern Coalfields Limited Singrauli, Northern Coalfields Limited Kakri Project, Post Kakri, District-Sonebhadra, Uttar Pradesh, Northern Coalfields Limited Bina Project Post Bina District Sonebhadra, Northern Coalfields Limited Krishna Shila Project, Northern Coalfields Limited Kadia Project, Post Khadia District Sonebhadra, Northern Coalfields Limited, Dudhichuwa Project, Post Khadia District-Sonebhadra, UP were causing damage to

the environment which was also noted by this Tribunal in order dated 28.08.2018 in O.A. No. 276/2013, *Ashwani Kumar Dubey vs. Union of India & Ors.* The violation of environmental norms was resulting in damage caused to water bodies, including Rihand Reservoir. Surface and underground water was polluted affecting rivers like Son, Renu, Bijul, Kanhar, Gopad, Pankagan, Kathauta Kachan, etc. and streams/nalas like Ballia Nala, Chatka Nala, Kahuwa Nala, Tippa Jharia, Dongia Nala, etc. Water has been contaminated by toxic effluents discharged, chemicals and fly ash and was not fit for consumption. Such violation was confirmed by another Committee in its report dated 31.12.2018 in the above matter. In spite of acknowledged violation, the State PCB was not invoking the 'Polluter Pays' principle. The Tribunal directed the Uttar Pradesh State PCB and the Madhya Pradesh State PCB to recover compensation from the identified polluters, after following due process of law.

2. Accordingly, reports dated 21.08.2019 and 23.08.2019 has been furnished by the MPPCB and the UPPCB respectively.
3. We have heard the learned counsel for the applicant, MPPCB, UPPCB and for two of the thermal power plants.
4. We first take up for consideration the report dated 21.08.2019 furnished by the MPPCB which refers to serious level of pollution prevailing in Singrauli area. A Committee was constituted to assess the quantum of compensation based on laid down norms which are not under challenge. In the light of directions, notifications and norms on the subject, the compensation in respect of 11 units was assessed as follows:

“Details of imposed Environmental compensation

As per the Environmental Compensation guidelines framed by CPCB in compliance of order 31.08.2018 in O.A. 593/2017 the

maximum environmental compensation is Rs. 30,000/- per day of non-compliance. The total amount of **56,08,50,000/- (Fifty Six Crore Eight Lac Fifty thousand rupees)** may be imposed upon the 03 TPP & 08 NCL mining project against the non-compliance of the major notification, direction & recommendations issued since 2014.

Summary of the days of non-compliance & Environmental compensation therefore is as tabulated below:

S.No.	Thermal power plant & Northern Coalfield Mine	Days of Non-compliance	Environmental Compensation in Rupees @ 30000/day
1.	M/s Essar Power MP Limited, Singrauli, MP	01	30,000/-
2.	M/s Sasan Power Limited, Singrauli, MP	1247	3,74,10,000/-
3.	M/s NTPC, Vindhyachal, Singrauli, MP	1389	4,16,70,000/-
4.	NCL, Nigahi, Singrauli	1825	5,47,50,000/-
5.	NCL, Gorbi Block-B, Singraulli	1843	5,52,90,000/-
6.	NCL, Khadia Project,	1825	5,47,50,000/-
7.	NCL, Amlohri area, Singraulli	2185	6,55,50,000/-
8.	NCL, Bina project	1825	5,47,50,000/-
9.	NCL, Dudhichua area	1825	5,47,50,000/-
10.	NCL, Jayant Project	2455	7,36,50,000/-
11.	NCL, Jhingurda area	2275	6,82,50,000/-

5. Following recommendations have also been made:

“Recommendations

1. To utilize the environmental compensation fund in carrying out comprehensive damage assessment study w.r.t. the Rihand reservoir and assessment of the carrying capacity of the Singraulli area and to utilize the fund in restoring the water & air quality of the area.
2. To conduct scientific study on overburden stability issue w.r.t. the use of 25% fly ash.
3. To intercept & divert the Balia Nallah effluents drain and establish Sewage Treatment Plant to ensure that no untreated effluent meet the Rihand reservoir.”

6. The Madhya Pradesh State PCB may proceed further in accordance with law. The compensation recovered may be deposited in the proportion of 60:40 with the CPCB and the Madhya Pradesh State PCB and utilized for restoration of environment and public health.
7. The report dated 28.08.2019 furnished by the UPPCB is also on similar lines and after consideration of the factual position on the ground, the Committee has calculated environmental compensation as follows:

“Abridged Status of Environmental Compensation (EC)

SNo.	Name of industry (M/s)	EC in
1.	NTPC Thermal Power Plant, at Shaktinagar, Sonebhadra (U.P)	27,00,000
2.	Northern Coal Fields Limited (NCL) Project Dudhichua, Sonebhadra (U.P.)	1,30,20,000
3.	Northern Coal Fields Limited (NCL) Project Khadia, Sonebhadra (U.P.)	1,24,80,000
4.	Northern Coal Fields Limited (NCL) Project Krishnashila, Sonebhadra (U.P.)	6,11,40,000
5.	Northern Coal Fields Limited (NCL) Project Bina, Sonebhadra (U.P.)	64,50,000
6.	Northern Coal Fields Limited (NCL) Project Kakri, Sonebhadra (U.P.)	64,50,000
7.	NTPC Thermal Power Plant at Rihandnagar, Sonebhadra (U.P.)	45,90,000
8.	U.P. Power Corporation Ltd, Thermal Power Plant, Obra, Sonebhadra (U.P.)	6,11,40,000
9.	U.P. Power Corporation Ltd, Thermal Power Plant, Anpara, Sonebhadra (U.P.)	6,11,40,000
10.	LANCO Anpara Power Ltd, Thermal Power Plant, Anpara, Sonebhadra (U.P.)	23,70,000

8. The recommendations of the Committee are as follows:

“11. Recommendations

In order to suitably address the critical issues of potential concerns to environment in the Singrauli Area, the Committee proposes following Recommendations subject to approval of Hon'ble NGT:

- a. In keeping with the strict compliance of this referenced Order of Hon'ble NGT, the Statutory Authorities may take note of the findings of this report and ensure appropriate action for recovery of Environmental Compensation due to damage caused to environment.*
- b. Considering complexity of study components and required expertise in related field / discipline, estimation of environmental damage and cost of remediation be worked out by a consortium of reputed institutions namely National Institute of Hydrology (NIH), Roorkee, National Geophysical Research Institute (NGRI), Hyderabad; National Institute of Occupational Health (NIOH), Ahmedabad; National Botanical Research Institute (NBRI), Lucknow and Indian Institute of Toxicology Research (IITR), Lucknow or such other institutions of repute. U.P. Pollution Control Board and M.P. Pollution Control Board may be nodal agencies for execution of the above activities in their respective jurisdiction.*
- c. Irrigation Department in U.P. State is required to come out with status of silting in the reservoir impacting adversely on the water holding capacity of the reservoir and possible threat (if any) on the structure of the Rihand dam as the latter was designed to hold water column and is expected to practically holding a significant column of silt due to discharge of industrial effluents.*
- d. Environmental carrying capacity in Singrauli area must be worked out to take a decision on new / expansion projects and also to devise an environment friendly strategy on pollution control by the industries in the area.”*

9. The Uttar Pradesh State PCB may proceed further in accordance with law. The compensation recovered may be deposited in the proportion of 60:40 with the CPCB and the Uttar Pradesh State PCB and utilized for restoration of environment and public health.

The application is disposed of.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

October 11, 2019
Original Application No. 453/2019
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