

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

(By Video Conferencing)

Original Application No. 02/2022
(I.A. No. 86/2022 & I.A. No. 89/2022)

(With report dated 11.03.2022)

In re: News item published in India Today dated 26.12.2021 titled **“7 dead in boiler explosion at noodle factory in Bihar’s Muzaffarpur, probe ordered”**

Date of hearing: 22.04.2022

**CORAM: HON’BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON’BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON’BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON’BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Respondents: Ms. Soni Singh, Advocate for CPCB
Mr. Abhimanyu Singh, Advocate for BSPCB
Mr. Sanjay Gupta & Mr. Sujit Gupta, Advocates for M/s Anshul Snacks
& Beverages Pvt. Ltd.

ORDER

1. Proceedings have been initiated based on media report¹ that seven persons died and four sustained injury after a boiler explosion in the factory of the project proponent (PP) in Bela Industrial area, Phase-II, Muzaffarpur, Bihar. The Registry issued notice dated 03.01.2022 to the State PCB, CPCB, District Magistrate, Director, Industries, Bihar and the PP for hearing scheduled for 11.01.2022.

2. The matter was considered on 11.01.2022 in the presence of representatives of CPCB and State PCB. It was held that the PP was

¹ Dated 26.12.2021 published in India Today titled “7 dead in boiler explosion at noodle factory in Bihar’s Muzaffarpur, probe ordered”

liable to compensate the victims of the accident and also make good the loss to the environment. To ascertain the cause of the incident, extent of damage to the environment and individuals, compensation paid and payable, status of compliance of environmental norms including the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 and other preventive safety measures required to be taken so that such incidents are avoided in future and suitability of the site, preparation of off-site and on-site emergency plans and holding of mock drills, the Tribunal constituted a six-member joint Committee comprising MoEF&CC (Integrated Regional Office, Ranchi), CPCB, State PCB, District Magistrate, Muzaffarpur, State Disaster Management Authority and Director, Industries, Bihar. It was further directed that heirs of the deceased may be paid compensation at the rate of Rs. 15 lakhs (in respect of each deceased) and seriously injured victims (those who have been hospitalized) be paid compensation at the rate of Rs.2 lakh each and other injured (not hospitalized) at the rate of Rs. 50,000/- each.

3. In pursuance of above, report of the joint Committee has been filed on 11.03.2022 after undertaking visit to the site. Relevant extracts from the report are:

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5. ABOUT THE FACTORY:

M/s Anshul Snacks and Beverages Pvt. Ltd. is established at an industrial plot of Bela Industrial Area, Muzaffarpur measuring 35200 Sq. ft as an Orange category of industry engaged in production of ready to eat food products like potato chips and noodles with a production capacity of 1.5 MT/day for which the unit was granted Consent-to-Establish under section 25/26 of the Water (Prevention and Control of Pollution) Act, 1974 and 21 of the Air (Prevention and Control of Pollution) Act, 1981 by Bihar State Pollution Control Board vide ref. no. 200, dated-07.02.2019 with certain terms and conditions mentioned therein.

During the process of production, materials like flour, water and salt are mixed and the dough is sheeted for cutting and drying. The unit had an effluent treatment plant for treatment of waste water generated from washing of kettles, utensils and floor washing. For the purpose of drying, boiling and frying during the process, a boiler with a steam generation capacity of 3 TPH along with dust collector (cyclone) as air pollution control device (APCD) was installed at the unit. The boiler was having registration no. BR9432 under the Boilers Act, 1923. The boiler was inspected by the Inspector of Boilers, Muzaffarpur Circle and certified to work with a maximum pressure of 14.5 Kg/cm² for the period of 29.05.2021 to 28.05.2022 subject to the conditions mentioned therein.

*The boiler was inspected by the Inspector of Boilers, Muzaffarpur Circle on 21.10.2019, 14.02.2020, 26.05.2020 and 28.05.2021 and found working satisfactory on all the occasions. (Copy of the inspection note with enquiry report of Inspector of Boilers, Muzaffarpur is annexed as **Annexure-4**).*

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7. FACT ABOUT THE ACCIDENT:

At about 9:45 A.M. on the 26th of December, 2021 the incident of boiler explosion happened at M/s Anshul Snacks and Beverages Pvt. Ltd. leading to death of 7 persons and injuring equal member of people. The explosion was so severe that its sound was heard in the residential area and the neighboring village as reported to the joint committee during the site visit. However, no responsible person of the unit was present at the site during the visit, so circumstances leading to the accident of boiler could not be ascertained.

*On receipt of the information a team comprising of concerned senior officials of district administration, health department, SDRF and NDRF, Fire brigade, police etc. rushed to the site and undertook rescue operations. A report of the same is annexed as **Annexure-9**.*

*The rescue Operation was conducted under the guidance of the District Magistrate, Muzaffarpur and the Additional Collector, Disaster Management, Muzaffarpur. From the investigation done by the Inspector of Boilers on the day of accident i.e. 26.12.2021 and on the following day 27.12.2021 **it is evident that the accident occurred due to excessive pressure in the boiler. The safety valves of the boiler remained inoperative at the maximum permissible pressure of 14.5 Kg/cm² as recorded in the certificate.** It was found that the boiler got smashed due to explosion and its broken steel parts and other structures were found scattered all around within the factory premises and neighboring factory also. Steel parts of broken boiler were found scattered in the premises also on the day of site inspection of the committee. The small pieces were found distorted, hard and colour of the surfaces also appeared blackish burnt signifying*

overheating. Enquiry report of the Inspector of Boiler, Muzaffarpur Circle, Muzaffarpur is placed with Annexure-4.

In accordance with the provisions of section 18 of the Boilers Act, 1923 (V of 1923), the owner of the Boiler was required to report in writing to the Inspector of Boiler, Muzaffarpur Circle, Muzaffarpur about the accident within twenty-four hours of the accident. Such report was to contain a true description of the nature of the accident and of the injury caused thereby to the boiler or to any person with sufficient details to enable the Inspector of Boilers to judge the gravity of the accident. **For violation of this and permitting the use of Boiler at a pressure higher than the maximum permissible limit of 14.5Kg/cm², a case has been lodged under section 24€ of the Boiler Act, 1923 by the Inspector of Boilers, Muzaffarpur Circle, Muzaffarpur in the court of the Chief Judicial Magistrate, Muzaffarpur.** A copy of the petition of complaint is annexed as **Annexure-10**.

An inspection was also made by the Inspector of Factory, Muzaffarpur Circle, Muzaffarpur on 26.12.2021, the inspection report of which is annexed as **Annexure-11**. Based on the inspection report a complaint case has been filed u/s 88 and 96 of the Bihar Factories Act, 1948 and Rule 96 of the Bihar Factory Rules, 1950.

8. EXTENT OF DAMAGE:

- i. As per the information received from the district administration Seven (7) people as detailed below had lost their lives due to the accident:-

Sl. No.	Name of the dead person	Name of Father/Husband	Gender	Age	Address	Circle	Name of the District
1	2	3	4	5	6	7	8
1.	Om Prakash Rai	Paras Rai	Male	36	Vill-Rakhaut, P.S.-Shikarpur	Narkatiaganj	West Champaran
2.	Vinod Rai	Lakhvindar Rai	Male	36	Vill-Salha	Mushari	Muzaffarpur
3.	Sandeep Kumar	Ram Naresh Singh	Male	33	Vill-Chhapra Megh	Mushari	Muzaffarpur
4.	Amarnath Shah	Shankar Shah	Male	31	Vill+PO-Pilakhi	Muraul	Muzaffarpur
5.	Meyan Sahni	Chirkut Sahni	Male	47	Vill-Dhobana	Narkatiaganj	West Champaran
6.	Ajit Kumar	Vijay Rai	Male	21	Vill+PO-Jamharuan	Kurhani	Muzaffarpur
7.	Lallan Yadav	Chandeshwar Yadav	Male	48	Vill-Khajuhan, Devpura	Ekma	Saran/Chapra

- ii. Seven (7) people suffered injuries due to the accident and were hospitalized at SKMCH, Muzaffarpur.

Sl. No.	Name of the injured person	Name of Father/Husband	Gender	Age	Address	Circle	Name of the District
1	2	3	4	5	6	7	8
1.	Vivek Kumar Sada	Suresh Sada	Male	22	Balua	Harlakhi	Madhubani
2.	Satyam Kumar	Suresh Singh	Male	20	Nagar Thana sector	Sheohar	Sheohar
3.	Sanjeev Kumar	Vijay Shah	Male	21	Navtola	Baso Patti	Madhubani
4.	Mahadeo Kumar Sada	Dhyani Sada	Male	22	Baluhan	Harlakhi	Madhubani
5.	Vishal Kumar	Hareram Rai	Male	18	Vill-Narkatiaganj	Narkatiaganj	West Champaran
6.	Kundan Kumar	Shubham Paswan	Male	25	Mushari	Mushari	Muzaffarpur
7.	Deepesh Kumar	Shivjee Bhagat	Male	18	Khadi Bhandar, Mithanpura	Mushari	Muzaffarpur

- iii. The following three (03) persons suffered minor injuries and were discharged after treatment from the Sadar Hospital, Muzaffarpur (Collectorate Muzaffarpur, ref. no. 165, dated-28.02.2022 and Sadar Hospital, Muzaffarpur ref. no.146, dated-28.02.2022, **Annexure-14**) :-

Sl. No.	Name of the injured person	Name of Father/Husband	Gender	Age	Address	Circle	Name of the District
1	2	3	4	5	6	7	8
1.	Pankaj Kumar	Ramchandra Thakur	Male	22	Mathurapur	Sakara	Muzaffarpur
2.	Jyoti Kumari	Raju Mahto	Female	35	Manikpur	Mushari	Muzaffarpur
3.	Savita Devi	Santosh Kumar	Female	40	Taraira	Mushari	Muzaffarpur

- iv. **The committee observed damage to the structures of the factory and neighboring industrial units.**
- v. As far as environmental issues are concerned there was no visible damage to the environment including air, water and soil noticed by the joint committee on the day of the site visit. However, **the unit was operating without a valid consent to operate from the Bihar State Pollution Control Board causing damage to the environment for which an Environmental Compensation of Rs. 39,25,000/(39.25 lakh) has been imposed on the unit by the Bihar State Pollution Control Board for which a proposed direction under section 5 of the Environment (Protection) Act, 1986 has been issued to**

the unit vide ref. no. 41, dated-07.01.2022. A copy of the same is annexed as **Annexure-12.** The same was returned by the Department of Post to the Board on 19.01.2022 with a note 'Always door lock after blasting'. The Board published this notice through local dailies on 26.02.2022, a copy of which is annexed as **Annexure-15.**

A complaint case also has been filed by the Bihar State Pollution control Board in the court of the Hon'ble CJM, Muzaffarpur on 04.01.2022 under section 44 of the Water (Prevention and Control of Pollution) Act, 1974, under section 37 of the Air (Prevention and Control of Pollution) Act, 1981 and under section 15 of the Environment (Protection) Act, 1986, A Copy of the complaint petition is annexed as Annexure-13.

9. COMPENSATION PAID / TO BE PAID.

- i. An ex-gratia compensation of Rs. 4,00,000/- (Four lakh) only was paid to the heirs of the six deceased persons by the local district administration. The case of remaining one deceased, Late Lallan Yadav, S/O- Sri Chandeshwar Yadav, Vill-Khajuan, Devpura, Block-Ekma, District- Saran is under process for payment of ex-gratia compensation.
- ii. The payment of ex-gratia to the hospitalized injured persons at the rate of Rs.12,700/- each are being processed by respective districts and blocks.
- iii. No compensation is paid to the three (03) other injured persons with minor injuries and discharged without hospitalization.
- iv. For payment of compensation to heirs of the deceased and the injured through Prime Ministers National Relief Fund (PMNRF), required documents are being uploaded by the district administration on the concerned portal <http://exgratia.nic.in>.

The PMO has approved a compensation of Rs. 2 lakh for each deceased and Rs. 50,000/- for the hospitalized injured persons in the case for which further action is being taken by the district authorities.

- v. As per orders dated 11.01.2022 of the Hon'ble NGT in the matter, payment of compensation to the heirs of the deceased at the rate of Rs. 15,00,000/- (Fifteen lakh) (in respect of each deceased), Rs. 2,00,000/- (Two lakh) each to seriously injured victims and Rs. 50,000/- (Fifty thousand) each to other injured are still to be made by the District Administration, Muzaffarpur.

10. CONCLUSION :-

Based on the information received from the different stakeholders, examination of records, discussion and site visit of the joint committee **it is concluded that the accident occurred at the site of the factory M/s Anshul Snacks and**

Beverages Pvt. Ltd., Bela Industrial Area, Phase-II, Bela, Muzaffarpur on 26.12.2021 at about 9:45 A.M. due to explosion of the boiler installed and being operated by the unit due to excessive pressure higher than the permissible limit and non-operation of safety valves.

The accident took the life of seven persons and other seven persons were injured and provided treatment at Sri Krishna Medical College and Hospital, Muzaffarpur / Sadar Hospital, Muzaffarpur. The rescue and evacuation operation during the accident was promptly carried out by the district administration under the guidance of the Additional District Magistrate, Disaster Management, Muzaffarpur with the help of Police, Health, Fire Brigade, Municipal Corporation; team of SDRF and others.

An ex-gratia compensation of Rs. 4,00,000/- (Four lakh) each was paid by the district administration of Muzaffarpur to the heirs of the six deceased belonging to the district of Muzaffarpur and the case of remaining one was referred to the district of Saran, (namely, Late Lallan Yadav S/O Sri Chandeshwar Yadav), to which the deceased belonged for payment of compensation. An amount of Rs. 12,700/- only are under process to be paid as compensation to the injured. **Compensation as directed by the Hon'ble Tribunal vide its order dated 11.01.2022 at the rate of Rs. 15 lakh in respect of each deceased; Rs. 2 lakh to seriously injured and Rs. 50,000/- each to other injured are still to be paid.**

In light of the above, the committee is of the view that the accident had occurred due to non-adherence to the Standard Operating Procedures (SOP) and safety protocols by the proponent with special reference to the operation of boiler. Even the statutory obligations were not being followed by the unit.

11. Recommendations of the committee to avoid such incidence in future:-

Following preventive measures may be taken by the concerned to avoid recurrence of such incidents in future:-

- i. Standard Operating Procedures (SOP) with Monitoring Protocols and check-list may be prepared and strict adherence to the same must be ensured.
- ii. Safety audit of the all such units be done strictly at prescribed intervals.
- iii. Frequency of inspection of boilers by statutory authorities may be increased.
- iv. Use of personal protective equipments by all the workers of the factories be ensured.
- v. A display board be installed at all such factories showing status of all statutory compliances.
- vi. Regular training of workforce should be ensured.
- vii. Regular awareness programme shall be conducted for the workers and other employees as well.

- viii. House-keeping protocol should be followed strictly.*
- ix. Mock-drills for emergency response to be conducted at regular intervals.*
- x. Suitable space for such type of industries to be left between two adjacent industrial units. Residential and other activities should not be allowed in the vicinity of industrial area or clusters.*

4. The PP has filed IA Nos. 86/2022 and 89/2022 seeking modification of order dated 11.01.2022 for payment of compensation by the PP the ground that the PP is not at fault for the accident. Further prayer of the PP is that compensation has been deposited under the Employees' Compensation Act and in view of section 17 of the NGT Act, employees covered under the said Act are not entitled to compensation under the NGT Act. Compensation levied by the State PCB for PP having conducted its activities without requisite consents be set aside as there is no visible damage.

5. We have considered the matter and the submissions advanced. We accept the report of the Committee finding that boiler was operated with high pressure, against safety norms. The unit was operating without requisite consent to operate which was refused on 7.4.2020 and never challenged. The PP has violated Water and Air Acts and has to be held accountable for such violations. Compensation assessed by the PCB on that account cannot be avoided. Though available, no statutory appeal has been filed. In such a situation, no visible damage is required to be separately shown. Thus, PP is liable to pay compensation except that with regard to workmen, matter is beyond jurisdiction of this Tribunal and victims are to be paid as per the said Act. As regards factual aspect of inapplicability of liability under NGT Act for the workmen, we leave the question to be determined by the District Magistrate who may look into the record and determine who are the employees covered by the

Employees' Compensation Act and those not so covered will stand covered by the NGT Act in the matter of compensation, to be paid at the rate already determined. In case, compensation is found payable under the Employees' Compensation Act, District Magistrate may ensure that due compensation is disbursed strictly under the said Act. If deposit has not been made as per timeline, the PP may be required to make further deposit as per the said Act. If and to the extent the victims are not workmen covered by the said Act, compensation may be paid in terms of earlier order of this Tribunal. If the PP does not deposit the same, coercive measures be taken for recovery. Compliance be ensured as far as possible within one month. Any *ex gratia* payment will be independent of this order. This order will not affect any other liability of the PP. Since victims may be poor people and may not be aware of their rights, we request the Bihar State Legal Services Authority, to provide requisite assistance. The unit may not be allowed to operate without requisite consent and taking of all safety precautions, as suggested by the Committee.

The application will stand disposed of.

All pending I.A.s will also stand disposed of.

A copy of this order be forwarded to the District Magistrate, Muzaffarpur and Bihar State Legal Services Authority by email.

Adarsh Kumar Goel, CP

Dinesh Kumar Singh, JM

Prof. A. Senthil Vel, EM

Dr. Vijay Kulkarni, EM

April 22, 2022
Original Application No. 02/2022
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