

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

Original Application No. 67/2019
(I.A. No. 32/2019)

WITH

Original Application No. 138/2019
(I.A. No. 65/2019)

Sumit Kumar

Applicant(s)

Versus

State of Himachal Pradesh & Ors.

Respondent(s)

With

Amarjeet Kumar

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 28.03.2019

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

For Applicant(s): Mr. Arvind Nayar, Senior Advocate, Mr. Soumik Ghosal, Mr. Gaurav Singh, Dr. Sandeep Singh and Mr. Vinay Pal, Advocates

For Respondent (s): Mr. Sharat Kapoor and Ms. Salonee Agarwal, Advocates for SAIL.
Mr. Alokke Aggarwal, Ms. Anushruti Kushagra, Ms. Kritika Singh and Ms. Rachita, Advocates for respondent no. 11
Mr. Sanjay Kumar, Advocate for HPSPCB

ORDER

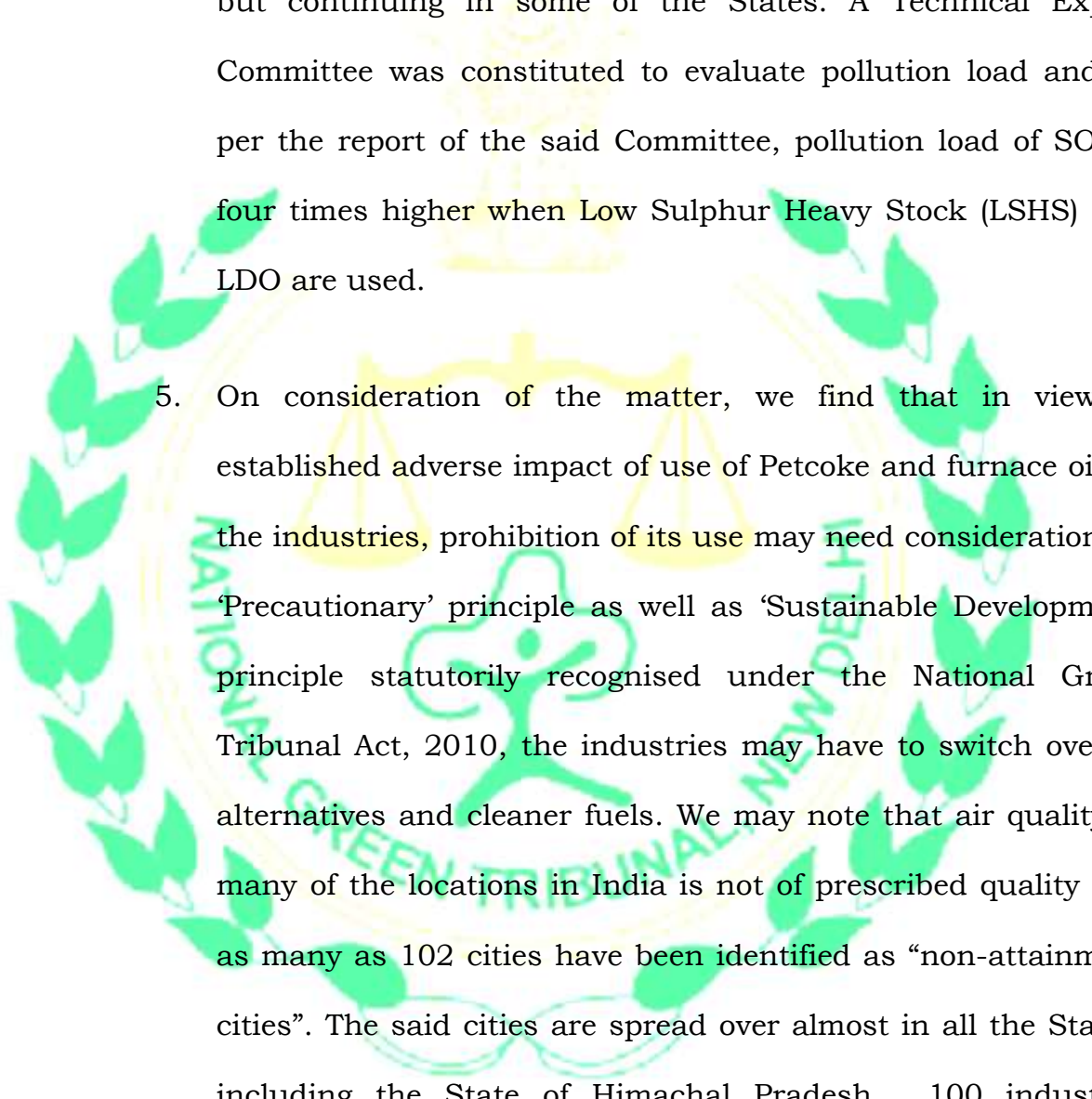
1. The issue for consideration is prohibiting use of Petcoke and furnace oil as fuel. Prayer of the applicant is to issue direction

to the Steel Processing Unit of the Steel Authority of India in the State of Himachal Pradesh in the light of order of the Hon'ble Supreme Court dated 17.11.2017 in W.P No. 13029/1985 in M.C Mehta v. Union of India.

2. Vide order dated 15.01.2019, this Tribunal sought a response from the Central Pollution Control Board (CPCB) and the Himachal Pradesh Pollution Control Board (HPPCB).

3. Accordingly, the response has been received vide e-mail dated 15.02.2019 from the CPCB. The conclusion therein is as follows:

“Considering the various directions and orders of Hon'ble Supreme Court regarding use of petcoke and furnace oil containing higher sulphur, it is required that States and UTs, including Himachal Pradesh, formulate fuel policies regarding use of petcoke and FO in light of Hon'ble Supreme Court order dated 24.10.2017 (banning use of petcoke and FO in NCR States) and 17.11.2017 (suggesting States/UTs to take similar measures) and further Hon'ble Supreme Court order dated 13.12.2017, 05.02.2018 and 26.07.2017 allowing use of petcoke in industries/processes which use petcoke and furnace oil either as feed stock (Calcined Pet Coke (CPC) units, Aluminum industries) or where they get absorbed along with product in manufacturing process (cement, Lime Kiln, calcium carbide industries). It is relevant to mention that use of Raw Petroleum Coke (RPC) in CPC units has been allowed with condition of 90% recovery of SO₂ emission. The same principal may be followed in industrial processes where use of FO as feed stock is considered by States/UTs.”

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4. The reason for the above conclusion is huge emission of SO₂ and other pollutants on account of use of Petcoke and furnace oil by the industries which has been banned in several States but continuing in some of the States. A Technical Expert Committee was constituted to evaluate pollution load and as per the report of the said Committee, pollution load of SO₂ is four times higher when Low Sulphur Heavy Stock (LSHS) and LDO are used.
5. On consideration of the matter, we find that in view of established adverse impact of use of Petcoke and furnace oil by the industries, prohibition of its use may need consideration on 'Precautionary' principle as well as 'Sustainable Development' principle statutorily recognised under the National Green Tribunal Act, 2010, the industries may have to switch over to alternatives and cleaner fuels. We may note that air quality in many of the locations in India is not of prescribed quality and as many as 102 cities have been identified as "non-attainment cities". The said cities are spread over almost in all the States, including the State of Himachal Pradesh. 100 industrial clusters are declared critically polluted throughout India. This makes it imperative that any measure which is helpful in controlling air pollution must be preferred to the extent viable. These aspects have been considered by the Tribunal in order dated 08.10.2018 in O.A No. 681 of 2018 in News item published in "The Times of India" Authored by Shri Vishwa

Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15" and order dated 13.12.2018 in Original Application No. 1038/2018 in News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" respectively.

6. In view of the above, we accept the report of the CPCB and direct that the same may be given effect to. The CPCB may issue appropriate directions in this regard to the concerned States and Union Territories indicating coercive measures against those who fail to comply with the directions. Response of the States be taken and compiled within two months and further action proposed by way of a report to this Tribunal before the next date.

List for further consideration on July 4, 2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

March 28, 2019
Original Application No. 67/2019
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