

Item No. 02

Court No. 1

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

(By Video Conferencing)

Original Application No. 989/2018

Shivansh Pandey

Applicant

Versus

State of Uttar Pradesh

Respondent

Date of hearing: 16.03.2021

**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**

Respondent: Mr. Pradeep Misra, Advocate for UPPCB
Mr. Raj Kumar, Advocate for CPCB

ORDER

1. This order is being passed in continuation of order dated 15.07.2020. The question for consideration is the remedial action against pollution at and around Railway Godown, Faizabad, Uttar Pradesh in the course of loading and unloading of cement, fertilizers and grains by trucks, polluting the air quality and causing respiratory problems.

2. Vide order dated 03.01.2019, the Uttar Pradesh Pollution Control Board (UPPCB) was required to furnish a factual and action taken report in the matter. The matter was then considered on 03.03.2020 in the light of the compliance report dated 02.03.2020 filed by the Ministry of Railways. The Tribunal directed as follows:-

“4. The covered shed needs to be constructed to contain air pollution as directed vide order dated 29.08.2019. It does not appear to have been done. The construction can be of such nature as may be viable at the given location.

5. During the hearing, a copy of letter dated 02.03.2020 has been handed over mentioning as follows:

“Out of total around 2207 goods sheds/sidings/private sidings, Railway or siding owner have applied to concerned SPCB for consent to operate in 952 locations, out of which consent has been obtained in 618 cases. Further, application for consent is being processed in 646 more locations. Out of the remaining cases, it is seen that loading/ unloading is ‘Nil’ at 382 locations and also very less at some other locations.”

6. Let further necessary action be taken in the matter and a further status report as on 30.06.2020 filed before the next date by e-mail at judicial-ngt@gov.in.”

3. The matter was last considered on 15.07.2020 in light of further report of the State PCB dated 30.06.2020 to the effect that though certain remedial measures had been taken, further action was required. Accordingly, the Tribunal directed the Ministry of Railways to take further action, deposit assessed compensation. The Tribunal also directed the State PCB to prepare restoration plan and execute the same. The Ministry of Railways was also required to file compliance report. The operative part of the order is as follows:

“3. Accordingly, the State PCB has filed its report on 30.06.2020 inter-alia stating as follows:-

“1. That in compliance of order dated 03.03.2020, inspection of Railway Goods Siding, Faizabad was made by RO, Ayodhya on dated 26.06.2020. At the time of inspection Sri O.P. Pandey, Chief Goods Superintendent, Northern Railway, Ayodhya was present as representative of Railway. Detail inspection report is as given below.

*2. That the O.A. No. 989/2018 is related to pollution at and around Railway Goods Siding, Faizabad. **In the course of loading and unloading of cement, fertilizaer, grains and other bagged commodities on trucks from Railway Wagon which causes air pollution and ultimately causing respiratory problems to the habitants of nearby residential area mainly Neel Vihar colony, Ramnagar, Faizabad which is situated after the Southern Boundary Wall of Railway Goods Siding, Faizabad.***

3. That the Railway Goods Siding No. 10 is situated in the North Direction of Neel Vihar Colony, Ramnagar, Faizabad at a distance of approximately 30-50 meters. Railway Siding No. 10 is nearest to the Neel Vihar Colony. **Any shed has not been made by Railways. Loading and Unloading of Cement, Fertilizer, Grains and other bagged commodities are made in open to sky.** For the movement of trucks pucca road has not been made by Railways towards Railway Siding No. 10. Neel Vihar Colony is a residential colony of Nagar Nigam, Ayodhya.

4. That at time of inspection it was found that Railway has installed a display board near Railway Goods Siding, Faizabad for **making aware to general public and workers for the control of air pollution arising from the loading and unloading of Goods such as cement, fertilizer, grains and other bagged commodities.** Photograph of display board is annexed as annexure-01.

5. That the during inspection it was found that height of Southern Boundary Wall has been raised up to approximately 10 feet from ground level with the help of G.I. sheets. Photograph annexed as annexure-02.

6. That the plantation in the width of approximately 3-5 meters has been made along the Southern Boundary Wall of Railway Goods Siding. Approximately 125-150 plants have been planted. Photograph annexed as annexure-03.

7. That the any **permanent arrangement has not been made for sprinkling of water on the Railway Goods Siding No. 10.**

8. That the any **Covered/Open shed has not been made by Railways** for Railway Siding No. 10. Pucca road for the movement of trucks on Railway Siding No. 10 has not been made by Railway.

9. That the arrangement made by Railways for control of air pollution at Railway Goods Siding, Faizabad is **not sufficient for controlling the air pollution arising due to loading and unloading of commodities and movement of vehicles. Arrangement made by Railways for mitigation of fugitive emission generated from loading/unloading of commodities and movement of vehicles is not technically adequate. For control of fugitive emission from loading and unloading of commodities covered shed with**

central ducting system equipped with bag filter and a stack of suitable height is required. Fugitive emission escaped from the said air pollution control arrangement may be mitigated from permanent sprinkling arrangement which shall be installed near the boundary wall located towards Neel Vihar Colony.

10. That the previously ambient air quality near Railways Goods Siding, Faizabad was monitored by Regional Office Laboratory on dated_ 31.05.2019. **As per monitoring report value of R.S.P.M. was found 590.23microgram/m³ which is beyond the stipulated Norms. Copy of monitoring report dated. 31 05.2019 is annexed as annexure-04.**

11. That the ambient air quality near Railway Goods Siding Faizabad was monitored by Regional Office on dated 20.05.2020 As per monitoring report value of R.S.P.M. was found 537.53 microgram/m³ **which is beyond the stipulated Norms.** Copy of monitoring report dated. 20.05.2020 is annexed as annexure-05.

12. That the any information regarding **deposition of Environmental Compensation Rs. 91.2 lacs has not been made available to this office by Railways.** Letter has been issued by UPPCB dated 10.09.2019, 23.10.2019, 25.11.2019, 09_01.2020 and 28.02.2020 to District Magistrate, Ayodhya for recovery of E.C. amount Rs. 91.2 lacs as land revenue from Railway Goods Siding, Faizabad. Information regarding recovery of E.G. amount from Railways Goods Siding, Faizabad is still awaited from District Administration, Ayodhya. Copy of letter dated. 10.09.2019 23.10.2019, 25.11.2019, 09.01.2020 and 28.02.2020 are annexed as annexure-06.

13. That the as per office records Railways Goods Siding, Faizabad has not applied for obtaining consent to operate under section 21/22 of Air (Prevention of Control of Pollution), Act 1981 and its amendments.

14. That the as per office records Railways Goods Siding, Faizabad has not applied for obtaining consent to operate under section 25/26 of Water (Prevention of Control of Pollution), Act 1974 and its amendments.

15. That the during inspection, visit of Neel Vihar Colony, Ramnagar, Faizabad was also made. During visit resident of Neel Vihar Colony told that **problems of air pollution from Railway Goods Siding, Faizabad is still persisting.** Arrangement made by

Railways is of no use. Written Statement of resident of Neel Vihar Colony, Ramnagar, Faizabad is annexed as annexure-07.”

4. *Let the Ministry of Railways take further action in the light of the report of the State PCB. Compensation assessed may be deposited within two months failing which the Tribunal may have to take coercive measures, including stoppage of salary or imprisonment of the concerned erring officer under Section 25 of the National Green Tribunal Act, 2010 read with Section 51 C.P.C.*

5. *The State PCB may prepare a restoration plan and take steps for its execution to remedy the situation.*

6. *Compliance report may be filed by the Ministry of Railways as well as the State PCB within three months 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.”*

4. Accordingly, further reports have been filed by the State PCB on 14.01.2021 and the Ministry of Railways on 17.01.2021, followed by report dated 12.03.2021. We may refer to the same seriatim.

5. The report of the State PCB is as follows:-

Relevant Portion of Order	Compliance
<p>4 <i>“.....Let the Ministry of Railways take further action in the light of the report of the State PCB. Compensation assessed may be deposited within two months failing which the Tribunal may have to take coercive measures, including stoppage of salary or imprisonment of the concerned erring officer under Section 25 of the National Green Tribunal Act, 2010 read with Section 51 C.P.C..</i></p>	<p><i>Northern Railways, Lucknow had deposited the Environmental Compensation (EC) of Rs. 91.2 lacs vide letter dated 15.09.2020.</i></p> <p><i>(Copy of the said letter dt. 15.09.2020 is enclosed as Annexure-1)</i></p>
<p>5. <i>The State PCB may prepare a restoration plan and take steps for its execution to remedy the</i></p>	<p><i>A video conference on this issue was held on dt. 25.08.2020 between the officials of UPPCB and Senior Divisional Commercial Manager (Freight Services) and other concerned officers of Northern Railway Lucknow and has suggested to install covered shed with sprinkler system, hood, ID Fan & Bag Filter of adequate capacity</i></p>

<p>situation.</p>	<p><i>with a stack height of minimum 30 meter from ground level.</i></p> <p><i>The dense forestation at the available land in Railway Siding, RCC proofing of service road, arrangement for tyre washing of vehicles and making of wind break wall should also be done for the further control of air pollution in the railway siding.</i></p> <p><i>The UPPCB vide its letter dt. 01.09.2020, 21.10.2020, 09.11.2020, 23.11.2020 and 12.01.2021 have requested to Senior Divisional Commercial Manager (Front Services), Uttar Railway Lucknow to submit the restoration plan and time bound action plan.</i></p> <p>(Copy of the said letters dt. 01.09.2020, 21.10.2020, 09.11.2020, 23.11.2020 and 12.01.2021 are enclosed as Annexure-2,3,4,5 & 6)</p>
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6. The report of the Ministry of Railways dated 17.1.2021 is that out of around 2475 goods sheds/ sidings/ private sidings, Railway or siding owner have applied to concerned SPCB for consent in 1153 locations, out of which consent has been obtained in 856 cases. Also, loading / unloading is 'Nil' at around 400 locations (out of total) and also very less at some other locations. The subsequent report dated 12.03.2021 is that out of total around 2482 goods sheds/ sidings/ private sidings, Railway or siding owner have applied to concerned SPCB for consent in 1151 locations, out of which consent has been obtained in 892 cases. Also, loading / unloading is 'Nil' at around 400 locations (out of total) and also very less at some other locations. The Annexure giving the status of consent is as follows:

Annexure - I

(to RB L. No. 2019/EnHM/01/02 dated 12.03.2021)

Position of Goods Sheds, Railway Owned/ Public Sidings & Private Sidings - Status of Consent from SPCB

SN	ZR	Goods Sheds			Railway Owned Sidings			Private Sidings			Total Goods Sheds and Sidings		
		No. of Goods Sheds	Consent Applied	Consent Obtained	No. of Railway Owned Sidings	Consent Applied	Consent Obtained	No. of Private sidings	Consent Applied	Consent Obtained	Total	Consent Applied	Consent Obtained
1	CR	87	48	7	0	0	0	83	64	60	170	112	67
2	ER	57	53	46	16	16	11	51	46	46	124	115	103
3	ECR	90	39	12	7	4	4	103	89	85	200	132	101
4	ECoR	57	25	17	15	0	0	60	49	46	132	74	63
5	NR	198	0	0	10	0	0	113	39	31	321	39	31
6	NCR	67	6	5	13	0	0	24	20	20	104	26	25
7	NER	53	19	1	3	0	0	10	4	4	66	23	5
8	NFR	76	11	0	2	0	0	28	7	4	106	18	4
9	NWR	82	0	0	0	0	0	25	20	19	107	20	19
10	SR	92	4	2	5	5	5	80	61	60	177	70	67
11	SCR	136	3	3	1	1	0	112	72	72	249	76	75
12	SER	64	50	38	6	4	4	67	60	60	137	114	102
13	SECR	63	29	4	6	2	0	130	98	97	199	129	101
14	SWR	61	1	0	1	0	0	42	34	29	104	35	29
15	WR	93	23	1	3	2	0	80	66	52	176	91	53
16	WCR	52	30	5	4	3	1	54	44	41	110	77	47
	Total IR	132	341	141	92	37	25	1062	773	726	2482	1151	892

7. In view of above, no further order appears to be necessary except that the CPCB may ensure compliance in coordination with the State PCBs.

The application is disposed of.

A copy of this order be forwarded to the CPCB and the Chairman, Railway Board, New Delhi by e-mail for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

March 16, 2021
Original Application No. 989/2018
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