

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

**Original Application No. 117 of 2014  
Shantanu Sharma Vs Union of India & Ors.**

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**Original Application No. 499 of 2014  
Anupam Raghav & Anr. Vs. U. O. I. & Ors.**

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**Original Application No. 102 of 2014  
(M.A. No. 667/2014, M.A. No. 686/2014, M.A. No. 781/2014,  
M.A.NO.858/2014, M.A. NO. 872/2014, M.A. NO. 874/2014,  
M.A. NO. 895/2014, M.A. NO. 42/2015, M.A. NO. 287/2015,  
M.A. NO. 325/2015 & M.A. NO. 694/2015)**

**Sandplast (India) Ltd. & Ors. Vs MoEF & Ors.**

**CORAM: HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Original Application No. 117 of 2014:**

**Present:**

<b>Applicant /Appellant</b>	<b>:Appearance not marked</b>
<b>Respondent No.1</b>	<b>:Mr. Vikas Malhotra and Mr. M.P. Sahay, Advs.</b>
<b>Respondent No.2</b>	<b>:Mr. Abhishek Paruthi, Adv.</b>
<b>Respondent No.3</b>	<b>:Mr. Karan, Adv. with Ms. Sonia Sharma, Sr. Standing counsel</b>
<b>Respondent No.4</b>	<b>:Mr. H. S. Parihar and Mr. K. S. Parihar, Advs.</b>
<b>Respondent No.5</b>	<b>:Mr. Jogyscaria and Mr. Reegansbel, Advs.</b>
<b>Respondent No.7</b>	<b>:Mr. Shuvodeep Roy, Adv.</b>
<b>Respondent No.8 &amp; 68</b>	<b>:Mr. K. V. Jagdishvaran, Mr. S. Devarajan and Mrs. G. Indira, Advs.</b>
<b>Respondent No.23</b>	<b>:Mr. Rajul Shrivastava and Ms. Sucheta Yadav, Advs.</b>
<b>Respondent No.52</b>	<b>:Mr. V. K. Shukla, Adv.</b>
<b>Respondent No.24 &amp; 64</b>	<b>:Mr. Mukesh Verma, Adv.</b>
<b>Respondent No.28</b>	<b>:Mr. A. K. Panda, Sr. Adv., Mr. M. Paikaray and Mr. S. Panda, Adv.</b>
<b>Respondent No.11 &amp; 69</b>	<b>:Mr. Shubham Bhalla, Adv.</b>
<b>Respondent No.33 &amp; 63</b>	<b>: Mr. M. Yogesh Kanna &amp; Mr. Jayant Patel, Advs.</b>
<b>Respondent No. 46</b>	<b>:Mr. Suryanarayana Singh, Sr. Addl. Advocate General</b>
<b>Respondent No. 65</b>	<b>: Ms. Savitri Pandey and Ms. Azma Praveen, Advs.</b>
<b>Respondent No. 15</b>	<b>: Ms. Hemantika Wahi, Ms. Nupur Kanungo and Ms. Vimakshi Kadav, Advs.</b>
<b>Respondent No.33 &amp; 63</b>	<b>: Mr. M. Yogesh Kanna, Adv. and Mr. Jayant Patel</b>

**Mr. Gopal Singh (AOR), Mr. Rituraj Biswas and Ms. Varsha Poddar, Adv. for State of Tripura**  
**Mr. Balendu Shekhar, Adv. and Mr. Dinesh Jindal, LO for GNCTD & DPCC**  
**Dr. Abhishek Atrey and Mr. Sumit Rajora, Advs. for UT of Lakshadweep**

**Mr. Sanyam Saxena for the State of Arunachal Pradesh**  
**Mr. Anil Shrivastav for Arunachal Pradesh PCB**  
**Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand Sharma and Ms. Kalyani Devi, Advs. for the State of Manipur and Manipur SPCB**  
**Mr. Avnesh Arputhm, Ms. Anuradha Arputham, Mr. K. Vijay Kumar and Ms. Aruna Mathur, Advs. for State of Sikkim & Sikkim SPCB**  
**Ms. K. Enatoli Sema, Adv. for the State of Nagaland and Nagaland SPCB**  
**Mr. Pradeep Misra and Mr. Daleep Dhayani, Advs. for UPPCB**  
**Mr. Pulkit Prakash, Mr. Pragyan Sharma and Mr. Ravikant Pal, Advs for the State of Mizoram and Mizoram PCB**  
**Mr. Rudreshwar Singh, Mr. Gautam Singh and Ms. Divya Singh, Advs. for state of Bihar and Bihar PCB**  
**Mr. Amit Agarwal and Mr. Bikas Kargopl, Advs.**

Mr. D. K. Thakur, Adv. for HPPCB  
Mr. Abhimanyu Garg, and Ms. Preety Makkar, Advs.  
for UT of Puducherry  
Ms. Savitri Pandey, Adv. for the State of U. P.

Mr. Amit Agrawal and Mr. Bikas Kargupta, Advs. for  
the State of West Bengal

Mr. Dattaprasad Lawande, Mr. Amogh Prabhudesai,  
Mr. S. S. Rebello, Ms. Puma Bhandari and Ms.  
Prachita K., Advs. for the State of Goa  
Mr. Jayesh Gaurav, Adv. for JSPCB  
Mr. Aprajita Mukherjee, Advs. for the State of  
Meghalaya  
Mr. Tayenjam Momo Singh, Adv. for Meghalaya PCB  
Mr. Anil HGrover, AAG with Mr. Rahul Khurna, Adv.  
for the State of Haryana

### Original Application No. 499 of 2014:

Present: Applicant /Appellant :Appearance not Marked  
Respondent No.1 :Mr. Vikas Malhotra and Mr. M.P. Sahay, Advs.  
Respondent No. 2 to 5 & 10, 11 :Ms. Savitri Pandey & Ms. Azma Parveen, Advs.  
Respondent No. 6 to 9 :Mr. Pradeep Misra and Mr. Daleep Dhayani & Mr.  
Suraj Singh, Advs.

### Original Application No. 102 of 2014:

Present: Applicant /Appellant :Ms. Tasneem Ahmadi, Adv.  
Respondent No.1 :Mr. Vikas Malhotra and Mr. M.P. Sahay, Advs.  
Respondent No.2,3,22,41,69,83,103,115 & 125:Mr.Devashish Bharika and Ms.Anu  
Tyagi, Advs.  
Respondent No.4,12 & 128 :Mr. Sandeep Mahapatra & Mr. Kayesh Begg, Advs.

Respondent No.7, 87,107, 45,65,117,118:Ms. Avnish Ahlawat &Mr. N. K.Singh, Advs  
Respondent No.11 :Mr. Balendu Shekhar and Mr. Akhsay Abrol, Advs.  
Respondent No.17,36,56,78,98 : Mr. Mratul Jha, Adv.

Respondent No.25,64,86 : Mr. V. K. Shukla, Adv.  
Respondent No.30,50,92,112 : Mr. Raman Yadav and Mr. Dalsar Singh, Advs.  
Respondent No.63 :Mr. Mukesh Verma, Adv.  
Respondent No.116 : Mr. Krishnan Venupopal, Sr. Adv., Mr. Santosh  
Kumar and Mr. D. B. Ray, Advs. for SAIL  
Respondent No.132 : Mr. Anand Verma and Mr. Avnish Kumar Sharma,  
Advs. for Bhusan Sand Plast Ltd.  
Respondent No.106 : Mr. Ravin Dubey, Adv.

Respondent No.120 : Mr. Rajiv Bansal with Mr. Kush Sharma, Adv. for  
DDA  
Respondent No.113 : Mr. Amit Agrawal, Adv.  
Respondent No.31,51,71,93 : Mr. Amit Agrawal & Mr. Bikas Kargupta, Advs.  
Respondent No.3 & 8 : Mr. B.V. Niren, Adv.  
Respondent No.47 & 67 :Mr. Shubham Bhalla, Adv.  
Respondent No.18,37,79,99,57 :Mr. Dattaprasad Lawande, Mr. Gaurav Nair, Mr. S. S.  
Rebell , Mr. Amogh Prabhudessai, Ms. Purna  
Bhandari and Ms. Prachita Kalangutkar, Advs.  
Respondent No.129 :Mr. Ashok Gupta, Sr. Adv, and Mr. Ghanshyam,  
Adv.

Respondent No. 28,48,68,90,110,127 :Mr. Ajay Chaudhary, Adv.  
Respondent No.24,43,105 :Mr. Pankaj Kumar Mishra and Mr. Ajit S. Bhasme,  
Advs.

Respondent No.74 :Mr. Abhishek Paruthi, Adv.  
Respondent No.121 :Mr. D. Bhadra, Adv.  
Respondent No. 5, 33,53 :Mr. Nikhil Nayyal and Mr. Dhananjay Baijal, Advs.  
Respondent No.29,49,69 : Mr. M. Yogesh Kanna, Adv. and Mr. Jayant Patel  
Respondent No.130 :Mr. Ajit Pudussery & Ms. Shruti Sarma Aazarika,  
Advs.

Respondent No.75, 95 :Mr. Guntar Prabhakar, Mr. Gunpur Pramod Kumar  
and Mr. Prashant Mathur, Advs.  
Respondent No. 38: Ms. Ranjana Roy Gawai, Mr. Salim Inamdar, Ms.  
Sonakshi Awasthi, Mr. Akhi Sibal and Mr. Aditya  
Garg, Advs.

Respondent No.109 :Mr. Jayant K. Sood and Mr. Vishal Dabas, Advs. for  
PSPCL  
Respondent No.34 :Ms. Deepika Ghatowar, Ms. Kankana Arandh  
and M/s Corporatea Law Group, Adv.  
Ms. Sakshi Popli, Adv. for NDMC  
Mr. Biraj Mohapatra, Mr. Dinesh Jindal, LO for DPCC  
& GNCTD

Ms. Shweta Bidhri, Mr. Haaris Fazih, Ms. Atishree Sood, Advs. for Indian Metals & Ferro Alloys Ltd.  
 Mr. Suresh Tripathy, Adv. for DJB  
 Mr. A.K. Panda, Sr. Adv. along with Mr. M. Paikaray and Mr. S. Panda, Advs. for SPCB, Odisha  
 Mr. Rudreshwar Singh, Mr. Gautam Singh and Ms. Divya Singh, Advs. for State of Bihar and BPCB, Adv.  
 Mr. Anil Grover, AAG and Mr. Rahul Khurana, Advs. Mr. Pulkit Prakash, Mr. Pragyan Sharma and Mr. Ravikant Pal, Advs for the State of Mizoram and Mizoram PCB  
 Ms. Hemantika Wahi, Ms. Nupur Kanungo and Ms. Vimakshi Kadav, Advs. for Gujarat PCB

	<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
	<p><b>Item No. 9 to 11</b></p> <p><b>August 20, 2015</b></p>	<p>Heard. Perused.</p> <p>Learned counsel appearing on behalf of the applicant submits that the present application only seeks the implementation of the notifications dated 14.09.1999, 27.08.2003 and 03.11.2009 and nothing else. In view of this, submission, the applicant shall indentify who are the enforcing implementing agencies and make submissions with reference to it accordingly in order to ascertain the necessary parties to the present application-O.A No.117/2014.</p> <p>At this stage, it is submitted that the controversy can be further narrowed down by clarification regarding injunction order dated 24.09.2014 which injuncted all the state governments, public authorities and corporations from backfilling of fly ash in any mine/open areas. It is pointed out that on 24.12.2014 the stake holders holding permission were permitted to carry out backfilling of abandoned mine area specified in such permission with fly ash Now, the parties are at consensus that the use of fly ash in construction activity such as in road laying embankments or as land fill to reclaim low lying area including backfilling in</p>



abandoned mines or pit heads or for any other use be permitted if such activities are carried out strictly in accordance with the provisions made in the notification dated 14.09.1999 and 03.11.2009 and the conditions, if any, imposed in the respective permissions. It is pointed out that para 3 (1) of the notification dated 14.9.1999 which is reproduced herein below governs the said activity use of fly ash:

**(3) Specifications for use of ash-based products-**

*(1) Manufacture of ash-based products such as cement, concrete blocks, bricks, panels or any other material or the use of ash in construction activity such as in road laying, embankments or use as landfill to reclaim low lying areas including back filling in abandoned mines or pitheads or for any other use shall be carried out in accordance with specifications and guidelines laid down by the Bureau of Indian Standards, Indian Bureau of Mines, Indian Road Congress, Central Building Research Institute, Roorkee, Central Road Research Institute, New Delhi, Building Materials and Technology promotion council, New Delhi, Central Public Works Department, State Public Works Department and other Central and State Government agencies.*

It is further pointed out that the amendments to para (1) subparagraph (7) in amended Notification dated 14.09.1999 as indicated in the notification dated 03.11.1999, which are reproduced herein below, further govern the said activity:

*“(7) No agency, person or organization shall within a radius of hundred kilometers of a coal or lignite based thermal power plant undertake or approve or allow reclamation and compaction of*

*low lying areas with soil; only fly ash shall be used for compaction and reclamation and they shall also ensure that such reclamation and compaction is done in accordance with the specifications and guidelines laid down by the authorities mentioned in sub-paragraph (1) of paragraph 3.*

*(8)(i) No person or agency shall within fifty kilometers (by road) from coal or lignite based thermal power plants, undertake or approve stowing of mine without using at least 25% of fly ash on weight to weight basis of the total stowing materials used and this shall be done under the guidelines of the Director General of Mines Safety (DGMS).*

*Provided that such thermal power stations shall facilitate the availability of required quality and quantity of fly ash as may be decided by the expert committee referred in sub-paragraph (10) for this purpose.*

*(ii) No person or agency shall within fifty kilometers (by road) from coal or lignite based thermal power plants, undertake or approve without using at least 25% of fly ash on volume to volume basis of the total materials used for external dump of overburden and same percentage in upper benches of back filling of opencast mines and this shall be done under the guidance of the Director General of Mines Safety (DGMS)*

*Provided that such thermal power stations shall facilitate the availability of required quality and quantity of fly ash as may be decided by the expert committee referred in sub-paragraph (10) for this purpose.*

*(9) The provisions contained in clauses (i)*

*and (ii) of sub-paragraph (8) shall be applicable to all mine agencies under Government, public and private sector and to mines of all minerals or metals or items and it shall be the responsibility of agencies either undertaking or approving the external dump of overburden, backfilling or stowing of mine or all these activities to ensure compliance of provisions contained in clauses (i) and (ii) of sub-paragraph (8) and to submit annual returns to the concerned State Pollution Control Board or Pollution Control Committee as applicable.”*

Parties undertake to abide by the regulatory regime specified in the aforesaid provisions of the notification in the matter of use of fly ash as landfill to reclaim low lying areas including backfilling of abandoned mines.

In view of the consensus between the parties and the undertaking as aforesaid it is clarified that fly ash is allowed to be used in construction activity such as in road laying, embankments or used as land fill to reclaim low lying areas including backfilling in abandoned mines or pitheads or for any such other use as permitted strictly in accordance with the provisions of Notifications quoted herein above.

With this clarification the following M.A no. 781/2014, M.A no. 848/2015, M.A no. 895/2015, M.A no.892/2015, M.A no. 667/2014, M.A no.325/2015, M.A no. 874/2015, M.A no. 812/2014 are disposed of.

Issue notice of this application to all State Pollution Control Boards and all the States/ State

Pollution Control Committees of the Union Territories as the case may be. Notice made returnable on 23.09.2015. Service of notice permitted to be made by dasti through the respective Resident Commissioners of the States/Union Territories.

List the matter on 23<sup>rd</sup> September, 2015.

.....,JM  
(U.D. Salvi)

.....,EM  
(Ranjan Chatterjee)

