

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

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**ORIGINAL APPLICATION NO. 482 OF 2015**

**(M.A. NO. 574/2016)**

**IN THE MATTER OF:**

Chaudhary Yashwant Singh  
Son of Late Sri Ratiram Singh  
Aged about 54 years  
R/o. Vikas Nagar, Ward No. 11  
Robertsganj, Sonebhadra

.....Applicant

Versus

1. State of Uttar Pradesh  
Through the Chief Secretary Government of U.P.  
at Lucknow U.P.
2. Member Secretary  
U.P. Pollution Control Board  
TC-12, Vibhuti Khand, Gomti Nagar  
Lucknow, U.P.
3. Managing Director  
U.P. Rajkiya Nirman Nigam Ltd.  
Vibhuti Khand, Gomti Nagar, Lucknow
4. District Magistrate Sonebhadra U.P.
5. Member Secretary, Ministry of Environment  
Forest and Climate Change, Govt. of India  
New Delhi
6. State of Uttar Pradesh  
Through its Chief Forest Conservator  
Uttar Pradesh, Lucknow, U.P.  
Pin Code No. 226001
7. State of U.P.  
Through its Principal Secretary, Forest  
Uttar Pradesh, Lucknow, U.P.  
Pin Code No. 226001

8. Principal Secretary  
Mines and Mineral  
Uttar Pradesh, Lucknow, U.P.  
Pin Code No. 226001
9. District Mining Officer  
District Sonebhadra, U.P.  
Pin Code No. 231216
10. JAY PEE Industries Ltd. (J.P. Cements, Dala/Churk)  
Dala District Sonebhadra, U.P.  
Pin Code No. 231207
11. HINDALCO Industries Ltd.  
(Renusagar Power Division Renusagar)  
District Sonebhadra, U.P.  
Pin Code No. 231218
12. LANCO Anpara Power Ltd. Gate No. 3  
Anpara, Post Anpara  
District Sonebhadra, U.P.  
Pin Code No. 231225
13. CEO UPSHA  
(Uttar Pradesh State Highway Authority)  
Pin Code No. 226001
14. Project Manager Chetak Construction Co./A.C.P. Tollyways  
Pvt. Ltd. Ahraura, District Mirzapur U.P.  
Pin Code No. 231301
15. HINDALCO Industries Ltd. Renukoot  
District Sonebhadra, U.P. 231217
16. NTPC Rihand Nagar, Bajipur  
District Sonebhadra, U.P. 231223
17. NTPC Singrauli Super Thermal Power Project  
Shakti Nagar, District Sonebhadra-231222
18. Aditya Birla Chemicals Ltd.  
Renukoot District Sonebhadra-231217
19. CMD Northern Coalfields Ltd.  
Singrauli District Singrauli, M.P.  
(NCL Kharia Project, NCL Krishna Shila Project, NCL Bina  
Project)
20. CGM Anpara Thermal Power Project  
Anpara District Sonebhadra-231225

21. CGM Obra Thermal Power Project  
Obra District Sonebhadra-231219
22. Oriental Micro Chemicals Factory  
Village Gadha Labhri, Vikas Nagar, Pipari  
District Sonebhadra-231208

.....Respondents

**COUNSEL FOR APPLICANT:**

Mr. Abhishek Kumar Chaudhary, Advocate

**COUNSEL FOR RESPONDENTS:**

Mr. Raman Yadav and Mr. Dalsher Singh, Advocates for Respondent No. 1, 4, 6 to 9

Mr. Pradeep Misra and Mr. Daleep Kumar Dhyani, Advocates for Respondent No. 2

Mr. Rajiv Mehta, Advocate for Respondent No. 3

Mr. Balendu Shekhar, Advocate for Respondent No. 5

Mr. Pawan Upadhyay and Ms. Anisha Upadhyay, Mr. K. Pathak, Advocates for Respondent No. 10

Mr. Sayed Shahid Hussain Rizvi, Ms. Zeeshan Razvi, Advocates for Respondent No. 11 & 15

Mr. Vivek Singh, Advocate for Respondent No. 12

Mr. M.R. Shamshad, AoR and Mr. Aditya Samaddar and Mr. Vaibhav Yadav, Advocates Respondent No. 13

Dr. Abhishek Atrey, Advocate, Mr. Ishan Khanna, Advocate for Respondent No. 14

ZMR. Bharat Sangal, Advocate, Mr. Vidhushi Garg, Advocate for Respondent No. 16 & 17

Mr. Rajat Jariwal, Advocate for Respondent No. 18

Ms. Anjali Chauhan and Mr. Vinayak Shukla and Mr. Anip Sachthey, Mr. Anip Chauhan, Ms. Roia Sachthey, Advocates for Respondent No. 19

Mr. Pradeep Misra, Advocate for Respondent No. 20 & 21

Mr. Vinod Kumar, Advocate for Respondent No. 22

Mr. Raj Kumar, Advocate for CPCB

**JUDGMENT**

**PRESENT:**

**Hon'ble Mr. Justice Swatanter Kumar (Chairperson)**

**Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)**

**Hon'ble Mr. Bikram Singh Sajwan (Expert Member)**

**Hon'ble Mr. Ranjan Chatterjee (Expert Member)**

**Reserved on: 9<sup>th</sup> September, 2016**

**Pronounced on: 20<sup>th</sup> September, 2016**

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1. Whether the judgment is allowed to be published on the net?
  2. Whether the judgment is allowed to be published in the NGT Reporter?

**JUSTICE SWATANTER KUMAR, (CHAIRPERSON)**

Chaudhary Yashwant Singh, Applicant has filed the present application under Section 18(1) read with Sections 14, 15, 16 and 17 of the National Green Tribunal Act, 2010 (for short 'Act of 2010'). The Applicant claims to be a social worker and regularly makes efforts to prevent air, water and environmental pollution in different areas of Uttar Pradesh.

2. The Applicant has pleaded that there are number of stone crushers running without consent of the Uttar Pradesh Pollution Control Board (for short 'the Board') and in violation of the provisions of the Air (Prevention and Control of Pollution) Act, 1981 (for short 'the Air Act') in the area of Singrauli/Sonebhadra and are causing serious pollution. According to the Applicant, these stone crushers are causing serious pollution and even the other heavy industries situated in the area are also causing pollution. Further, according to the Applicant there was a complete ban on establishment of new stone crushers from 2000 but still a number of stone crushers have been installed and emissions from these heavy industries and stone crushers are not regularly checked by the local authorities including the Board. It is averred by the Applicant that there is lack of technological knowhow and qualified staff in these Authorities, which is further aggravating the problem. The water of Rihand Dam is being polluted by the harmful and dangerous emissions by Aditya Birla Chemicals through Dogiya Nala situated at Pipari /Renukoot region and also discharge of hazardous wastes from HINDALCO Industries Limited into Renu River and Rihand Dam. The level of methyl,

mercury, lead and other harmful chemicals have already reached above the dangerous mark and it is adversely affecting human health, flora and fauna. The villagers had suffered from various diseases generated due to the pollution of air and water by release of these pollutants. The Govind Ballabh Pant Sagar is badly getting affected with silt and ash deposits from power projects, namely, NTPC, HINDALCO, LANCO and Andpara Thermal Power Projects.

3. HINDALCO is transporting the coal from NCL fields by road. The Transportation is done in an improper and undesirable manner causing air pollution and resultantly causing harm to human health. Some of these companies have also established their coal yards adjacent to the densely populated villages as a result of which the villagers are suffering from misery. M/s J.P. Associates Ltd. which is running a cement factory, has illegally encroached upon the forest area and has cut/felled thousands of trees for its under construction thermal power plant, cement unit and also a coal washing unit. This unit does not have clearance from the National Board for Wildlife and other respective departments. Rajkiya Nirman Nigam Ltd. had constructed many Government/semi Government projects in the eco-sensitive/restricted areas such as Churk, Musahi, Raup, Lodhi and places adjoining Kaimur Wildlife Sanctuary. These projects had been constructed without prior permission from the Ministry of Environment and Forests without following the prescribed procedures under the Forest (Conservation) Act, 1980.

4. All the Respondents in the application, which includes the State of Uttar Pradesh, Uttar Pradesh Pollution Control Board, District Authorities and all the industries which are responsible for the illegal activity and construction and resultantly causing water, air and environmental pollution. The Applicant filed various applications seeking information under the Right to Information Act, 2005 with regard to the above irregularities and wrong deeds from 15<sup>th</sup> January, 2014 to 20<sup>th</sup> August, 2014.

5. According to the Applicant some information had been furnished by the authorities vide different letters, including the letter dated 28<sup>th</sup> August, 2012, 22<sup>nd</sup> March, 2013, 29<sup>th</sup> February, 2014, 17<sup>th</sup> June, 2014 and 20<sup>th</sup> November, 2014. Thereafter, the Applicant made certain representations to the various authorities, including the representations dated 28<sup>th</sup> July, 2014 and 20<sup>th</sup> November, 2014. In these representations, he had prayed for taking action against the defaulting officers besides various other reliefs. It is also stated by the Applicant that during that period even in the newspapers, news in that behalf was published and there was even a public agitation. Despite this, the authorities had taken no action. This resulted in issuance of the notice for demand of justice by the advocate on behalf of the Applicant on 1<sup>st</sup> December, 2014. This notice was received by the authorities and the only response the Applicant received was informing the Applicant, that the notice would be disposed of by Allahabad Branch of Uttar Pradesh Rajkiya Nirman Nigam Ltd. However, no effective action was taken.

6. At this stage we may refer to the contents of the notice for demand of justice dated 1<sup>st</sup> December, 2014. In this, the facts, as already noticed, had been stated. It was emphasised that the rights of the people under Article 21 of the Constitution of India as well as the Precautionary Principle were being violated. After referring to the above industries and the Government Departments, it was stated that there are various violations of different laws in force. Finally in the notice, the following reliefs were asked for:-

“I, therefore, call upon all of you by this notice for demand of justice and request you to take strict action against all above companies/authorities, direct them to strictly follow the rules and regulations, make a survey of damages and losses caused to local people and pay suitable compensation to them and direct them to work under the relevant law, rules and guidelines in the manners development without destruction and also take suitable action against the responsible officers/employees who failed to discharge their duties to prevent the aforesaid illegality and irregularity within a period of 15 days, failing which I have instructions from my client to take appropriate legal action against all of you which will be entirely at your costs and risk.”

7. All the Respondents filed their respective replies to this application on merits while raising a preliminary issue in regard to the maintainability of the application on the ground of limitation and mis-joinder of cause of action.

8. As the issue in relation to limitation and mis-joinder of the cause of action did not require any evidence or further filing of affidavits by the respective parties, arguments on this issue were heard treating it to be a preliminary issue. We may notice here that the application was heard on this issue on the plea of demurrer. In other words, the averments made in the application had to be taken on their face value

and are undisputed for the purpose of their hearing of the application in regard to the issue of limitation and mis-joinder of the action.

In order to examine the merit or otherwise of the contentions raised before us it will be necessary to refer to the reliefs claimed by the Applicant in the present application. The Prayer Clause reads as under:-

“It is, therefore, most respectfully prayed that this application may kindly be allowed and the Hon’ble Tribunal may pleased to direct the respondents to immediately take appropriate action in the matter and to take strict action against all above companies, direct them to strictly follow the rules and regulations, make a survey of damages and losses caused to local people and pay suitable compensation to them under Section 15 of National Green Tribunal Act, 2010 and direct them to work under the relevant law, rules and guidelines in the manners development without destruction and also take suitable action against the responsible officers/employees who failed to discharge their duties to prevent the aforesaid illegality and irregularity.

Further the respondents may be directed to fix responsibility of the Officers who have failed to ensure the compliance of the statutory rules and to furnish a detailed compliance report before the Hon’ble Tribunal.

Pass any other order and direction which this Hon’ble Tribunal may deem fit and proper in the interest of justice.

Cost of the litigation may kindly be awarded to the Applicant.”

9. The bare reading of the above prayer clause shows that the Applicant is claiming a relief covered under Section 14 of the Act of 2010 in so far as it relates to prevention and control of pollution and requiring compliance of the regulatory provisions by the authorities concerned to act in accordance with law as well as to take action against the defaulting officers/officials. The other relief is with regard to the payment of suitable compensation in terms of Section 15 of the

Act of 2010. The limitation prescribed under Section 14 for an action to be brought before the Tribunal is 6 months from the date on which the cause of action for such dispute first arose. The Tribunal is vested with the power to entertain an application beyond the prescribed period of 6 months if a sufficient cause is shown for filing the application beyond the prescribed period but that should not exceed the period of 60 days. In other words the total period for which the delay can be condoned by the Tribunal upon sufficient cause being shown is 6 months plus 60 days. Beyond that the Tribunal will have no jurisdiction even to condone the delay. In relation to Section 15 of the Act of 2010 the application for relief, compensation and restitution can be filed within a period of 5 years from the date on which the cause for such compensation or relief first arose.

10. Even under proviso to Section 15 (3) proviso the Tribunal can entertain an application beyond a period of 5 years but not exceeding 60 days thereafter. As far as the Tribunal is concerned this proposition of law is no more *res integra* and stands settled by different larger bench judgments of the Tribunal which state that beyond the prescribed period of limitation, including the period of 60 days, the Tribunal has no jurisdiction to condone the delay. The Tribunal can only condone the delay if an application is filed beyond 6 months or 5 years but not exceeding 60 days thereafter as the case may be. The Tribunal loses its jurisdiction to condone the delay beyond that period.

It will be relevant to refer to the following Judgments of the Tribunal in the case of *M/s Bharat Stone Crusher v. Rajasthan State Pollution Control Board* (O.A. No. 216 of 2014)

“In the alternative, even if we treat this application as an application under Section 16(g) of the NGT Act, even then, this application would be barred by time in terms of Section 14 of the NGT Act. An application has to be filed within 6 months from the date of which cause of action for such dispute first arose. The Tribunal is vested with the powers of condoning the delay in excess but not exceeding 60 days in terms of proviso to Section 14(3) of the NGT Act. This application as already noticed has been filed after more than two years. It would even be barred by limitation under Section 14 of the NGT Act. Even in this case, the appellant has not filed any application for Condonation of delay. Prayer for Condonation of delay even if made now would be in vain and Tribunal would not be able to grant such relief.”

And in the case of *Amit Maru v. Secretary, Ministry of Environment & Forest* 2015 ALL (I) NGT REPORTER (2) (PUNE) 1

“21. Reliance is placed on the observations in “Aradhana Bhargav & Ors. V. MoEF & Ors” [Application No.11 of 2013], decided by the Hon’ble Bench of NGT on 12.8.2013. The observations in relevant paragraphs of the said Judgment are as below: “23. From the very reading, it would be quite clear that the Tribunal has jurisdiction over all civil cases only where a substantial question relating to the environment including enforcement of any legal right related to environment is involved and also the said substantial question should also arise out of the implementation and is included in one of the seven enactments specified under the Schedule – I. Even, if the applicant is able to satisfy the above requisites, the Tribunal can adjudicate the disputes only if it is made within a period of six months from the date on which the cause of action in such dispute first arose and the Tribunal for sufficient cause can condone the delay for a period not exceeding 60 days in making the application. 24. Under Section 15 of the Act, an application for relief and compensation to the victims of pollution and other environmental damage under the enactments specified in Schedule-I or for restitution of the property damage or for restitution of environment

for such area or areas, the applicant could be filed within a period of five years from the date of which the cause of action for such compensation or reliefs first arose. Also, if sufficient cause was shown, the Tribunal is empowered to condone the delay for a period not exceeding 60 days.”

11. From the record before the Tribunal and in light of the facts afore-noticed it is clear that the Applicant has not stated as to when and from which date the limitation would trigger. In fact, under the para of limitation, as prescribed under Rules, the Applicant has stated “there is no limitation”. This averment is contrary to law and, therefore, cannot be further taken notice of. All applications must be filed within the prescribed period of limitation or within the extended period if stipulated under the statute. In the entire application there is no reference as to when the cause of action first arose. However, during the course of arguments the Ld. Counsel appearing for the Applicant submitted that the Applicant is claiming or referring to his rights from the year 1971 when the industrialisation in the area of Singrauli/Sonebhadra was stated. In the application the Applicant unambiguously has emphasised that the Applicant was aware of the efforts and the existing pollution in the area in the year 2014 when he made various applications to the authorities, received the responses and then submitted representations dated 28<sup>th</sup> June, 2014, 20<sup>th</sup> November, 2014 and the notice for demand of justice dated 1<sup>st</sup> December, 2014. Once the cause of action arose in the year 2014 and the compensation claimed is with effect from the year 1971 (of course there is no mentioning of that period in the application) but admittedly the industrialisation and establishment of these industries

started during that period or subsequent thereafter. For the reliefs claimed under Section 14 of the Act of 2010 if the limitation is triggered with effect from July, 2014 when the Applicant made his first representation then the present application is much beyond the prescribed period of limitation (6 months plus 60 days) and hopelessly barred by time. According to the Applicant, it is a case of continuing cause of action and therefore, every continuing violation would give a fresh cause of action and hence, the application would be within time. This argument is without any merit. A continuing cause of action would not provide a fresh period of limitation for the expression 'cause of action first arose' used by the framers of the law under both, Section 14 and 15. The expression 'cause of action first arose' is in contradistinction to the continuing cause of action.

In a continuing cause of action, the limitation would trigger from the date the cause of action first arose, unlike in the case of a reoccurring cause of action, where each subsequent violation which is a complete cause of action in itself would give fresh period of limitation, as held by a larger bench of the Tribunal. [Reference can be made to the judgment in the case of *The Forward Foundation & Ors v. State of Karnataka & Ors*. 2015 ALL (I) NGT Reporter (2) Delhi 81.] The present case is certainly not a case of reoccurring cause of action but as pleaded by the Applicant itself, is a case of continuing cause of action.

12. Similarly, the compensation as per the application of the Counsel is being claimed with effect from 1971 and for the period subsequent

thereto, is neither averred in the application nor argued during the course of arguments, that the compensation is being claimed for a period within 5 years of filing of the present application that is 2011 onwards. Thus, the relief claimed under Section 15 would also be hopelessly barred by time. In addition to this, we may notice that despite a specific position being taken by the Respondents the Applicant has filed this application without any application for condonation of delay and even subsequently made no effort to file such an application. Thus, the application is hopelessly barred by time and in any case there being no application for condonation of delay the question of condoning the delay does not even arise.

13. Coming to the other ground of mis-joinder of cause of actions, it needs to be noticed that the Applicant has made very vague allegations in the application without giving specific facts in relation thereto. Further, the Applicant has joined various cause of actions independent of each other and not consequential to one another. One aspect relates to air pollution by emission from industries while the other relates to transportation of coal and discharge of coal dust by different set of companies, and thirdly the project constructed by the Departments of the Government in violation of the laws in force and without obtaining the requisite clearances and lastly awarding of compensation to the people of different villages falling in the area of Singrauli/Sonebhadra.

14. The application does not give any particular fact in relation to any particular incident and makes very generalised statement. How,

when, by whom and the extent of pollution has not been referred to at all in the application. The application adds multifarious parties, multifarious causes of action which are neither interdependent nor consequential to each other. In fact, they are different and distinct causes of action against different parties and relate to different backgrounds and distinct prayers in that behalf. Rule 14 of the National Green Tribunal (Practise and Procedure) Rules, 2011 reads as under:-

“An application or appeal, as the case may be, shall be based upon a single cause of action and may seek one or more relief provided that they are consequential to one another.”

15. The plain reading of the above Rule shows that it is not permissible to bring plural and different causes of action in one and the same application/petition. The application has to be based upon a single cause of action and may seek one or more relief provided that they are consequential to one another. In other words, various reliefs can be claimed by an Applicant in an application provided they arise from a single cause of action. Mis-joinder of multifarious cause of action particularly when they are different and distinct is not permissible under the rules. The Applicant has claimed different reliefs against different parties on different grounds and for different defaults or irregularities that are nowhere interconnected or consequential to each other. Entertaining this application in the form in which it has been presented would be in complete violation of Rule 14 of the above Rules. Besides all this, the Application is vague, uncertain and unspecific to the extent that it is difficult for the Tribunal to deal with it on merits. It is not just and fair to the

Respondents if the application is proceeded with further in the form in which it has been filed. In fact, it does not even comply with the basic form prescribed under the Rules for the filing of an application. Despite specific objections in this behalf, the Applicant has failed to take any remedial measures though the matter is now pending for a considerable time before the Tribunal. Thus, this application is liable to be dismissed on the ground of limitation and mis-joinder of cause of action and being in violation of Rule 14 of the National Green Tribunal (Practice and Procedure) Rule, 2011. However, we would make it clear that dismissal of this application is without prejudice to the rights and contentions of the respective parties in the connected applications and would not in any manner prejudice the contentions raised in other connected matters relating to the same area and similar questions of environment.

16. The Application is hereby dismissed without any order as to costs.

**Swatanter Kumar**  
**Chairperson**

**Raghuvendra S. Rathore**  
**Judicial Member**

**Bikram Singh Sajwan**  
**Expert Member**

**Ranjan Chatterjee**  
**Expert Member**

New Delhi  
20<sup>th</sup> September, 2016