

Item No. 04

Court No. 2

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

Original Application No. 643/2023

Rajesh Kumar

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondents

Date of hearing: 10.12.2024

**CORAM: HON’BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON’BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None for the applicant.

Respondents: Mr. Pradeep Misra, Advocate for UPPCB (through VC).
Mr. Ashutosh Thakur, Advocate for respondent no. 4 (through VC).

ORDER

1. Mr. Rajesh Kumar resident of Bramharshi Lane near Old Arvind Mahila College Road, New Area Kadam Kuan, Patna has sent by post the present letter petition to this Tribunal, which has been treated and registered as O.A. No. 643/2023, seeking issuance of directions to the respondent no. 4-Project Proponent (M/s. Bina Project, Northern Coalfields Ltd. (NCL), Sonbhadra, Uttar Pradesh) to remediate damage caused to environment due to regular burning of coal stock of deshelling plant near deshelling plant yard of above said project.

2. The applicant has submitted in the application that a deshelling plant is in operation at Bina Project of NCL situated at Sonbhadra, Uttar Pradesh (near Krishnashila Railway Station). After the deshelling process the reject coal is being stacked at the deshelling plant reject yard near weigh bridge number three and is being sold in open market through e-auction. The reject deshelling coal yard is under fire since last one month. Reject coal of the quantity of approximately more than one lakh ton has been fully burnt. Continuous burning of reject coal for more than a month has damaged the environment by heat and smoke due to which the nearby villagers are facing difficulties. The Bina Project of NCL is in the most critically polluted area and the management is violating the terms and conditions of the Environmental Clearance (EC) granted by the competent authority and Consent to Establish (CTE)/Consent to Operate (CTO) granted by UPPCB.

3. Vide order dated 02.01.2024, (1) State of Uttar Pradesh, through its Chief Secretary, (2) the District Magistrate, Sonbhadra, (3) Uttar Pradesh Pollution Control Board (UPPCB), through its Member Secretary and (4) Managing Director, Bina Project, NCL, District Sonbhadra, Uttar Pradesh were impleaded as respondents no. 1 to 4 and notices were ordered to be issued to them requiring them to file their reply/response and this Tribunal also constituted a Joint Committee comprising of Integrated Regional Office, MoEF & CC, Lucknow, CPCB, UPPCB and the District Magistrate, Sonbhadra with direction to undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position and suggest appropriate remedial action.

4. In compliance thereof, report of the Joint Committee has been filed by UPPCB vide email dated 19.02.2024. The relevant part of the report of the Joint Committee reads as under:-

"2. That in compliance of Hon'ble NGT directions, following members have been nominated by the concerned departments: -

- a. Dr.(Ms) Satya, Additional Director/Scientist-E, MOEF&CC, Regional Office, Lucknow.*
- b. Shri Sahdeo Kumar Mishra, ADM(F/R), Sonbhadra*
- c. Shri Kamal Kumar, Scientist-E, CPCB, RD, Lucknow.*
- d. Shri U.K. Gupta, Regional Officer, UPPCB, Sonbhadra.*

3. That the Committee members discussed and decided a date for carrying out field visit. On behalf of Joint Committee, 'Regional Officer' (RO), UPPCB, Sonbhadra has issued intimation letter vide reference no. G0164/OA-643/2024 dated 13.02.2024. The copy of letter dated 13.02.2024 is attached herewith and marked as Annexure no.-1

4. That the joint committee conducted the site visit on dated 15.02.2024 of M/s Northern Coalfields Limited, Bina Project, Bina, Sonbhadra to review the factual status of the grievances made by the complainant/applicant.

5. That the following issues were raised by the applicant in his application:-

"....Deshalling plant is in operation at Bina Project NCL situated at Sonbhadra, Uttar Pradesh (near Krishnashila Railway Station) after the deshalling process the reject coal is being stacked at the deshalling plant reject yard near weight bridge number three and is being sold in open market through e-auction. The reject deshaling coal yard is under fire since last one month. Reject coal of the quantity of approximately more than one lakh ton has been burnt fully. Continuous burning of reject coal for more than a month has damaged the environment by heat and smoke due to which the nearby villagers are facing difficulties. The Bina Project is in the most critically polluted area and the management is violating the terms and conditions of the environmental clearance granted by the competent authority and CTE/CTO granted by UPPCB....."

6. Field Observations of the committee:'

- I. During visit by joint committee the deshalling plant was found operational. However the process of washing of coal was found stopped on the day of site visit.*

- II. *Rejected coal stock was not found at the deshalling plant reject yard near weight bridge number three. Project Authority (PA) has informed that they are doing e-auction for selling of rejected coal. However, documentary proof was not provided.*
- III. *On the day of site visit, the deshalling yard was found empty and no fire or smoke was observed. As per information submitted by Project Authority, rejected coal is not being stocked in the deshalling yard since November 2023. Maximum quantity of reject coal i.e. 91432.050 MT was stocked during the month of March 2023 (Annexure-2).*
- IV. *As per the compliance report of conditions imposed in 'Consent to Operate'(CTO) and Environment Clearance (Copies attached as Annexures-3&4) and observations made during the site visit, it was found that the nit has provided water sprinklers, fixed Fog Canons, sweeping machine, truck mounted mist spray guns to control the dust emission.*

7. That it is submitted that Regional Officer, UPPCB Sonbhadra has directed M/s Northern Coalfields Limited, Bina Project, Bina, Sonbhadra for providing information vide letter no. G0171/OA-643/2024 Dated- 14.02.2024. The copy of letter dated 14.02.2024 is attached herewith and marked as Annexure No.-5.

8. That it is submitted that Project Authority vide their reply dated 15.02.2024 has informed that Smoke was seen on dated-04.06.2023 and Project Authority had controlled this smoke with the help of firefighting team on 09.06.2023. The reply of Project Authority is attached herewith and marked as Annexure No.-6.

9. That Project Authority vide its reply letter dated 15.02.2024, has also informed that ambient air quality monitoring was done two times in the month of June, 2023. As per the monitoring results, the parameters are within the prescribed limit. The copies of analysis reports are attached herewith and marked as Annexure No.-7.

10. That it is submitted that UPPCB has issued Show-cause notice to M/s Northern Coalfields Limited, Bina Project, Post-Bina, Sonbhadra to impose Environmental Compensation for defaulting period vide letter no.- H07066/C-2/vaayu-155/2024 Dated 16.02.2024. The copy of show cause notice is attached herewith and marked as Annexure No.-8.

Suggestions/Recommendations:

- I. *The Project Authority should install smoke detector sensors and CCTV cameras in dishelling yards for regular vigilance of fire/smoke.*

- II. *The Project Authority must ensure that in storage yard the reject coal should not catch fires/ smoke.*
- III. *The Project Authority must construct boundary wall surrounding the yards and install water sprinkler systems to control fire/ smoke.*
- IV. *The Project Authority must ensure water sprinkling in connecting roads of yards to reduce dust emissions during vehicular movement.*
- V. *The Project Authority must comply the rules/ orders issued by departments for fire safety and environmental pollution control and prevention.*
- VI. *UPPCB should impose environmental compensation for past violation as per law.”*

5. Pursuant to service of notice on it respondent no. 3-UPPCB filed reply vide email dated 11.09.2024. The relevant part of the reply reads as under:-

“1. That the Uttar Pradesh Pollution Control Board, hereinafter referred as UPPCB had submitted joint committee report in compliance to the order dated- 02.01.2024 passed by this Hon'ble Tribunal vide letter reference no G0182/J.C.R./OA-643/2023/2024 Dated 19.02.2024. A copy of letter dated 19.02.2024 is being annexed herewith as Annexure-1 to this response.

2. That the observations of the joint committee report are as follows:-

I. During visit by joint committee the deshalling plant was found operational. However, the process of washing of coal was found stopped on the day of site visit.

II. Rejected coal stock was not found at the deshalling plant reject yard near weigh bridge number three. Project Authority (PA) has informed that they have sold rejected coal through e-auction. However, documentary proof was not provided.

III. On the day of site visit, the deshalling yard was found empty and no fire or smoke was observed. As per information submitted by Project Authority, rejected coal is not being stocked in the deshalling yard since November 2023. Maximum quantity of reject coal i.e. 91432.050 MT was stocked during the month of March 2023.

3. That the Project Authority i.e. M/s Northern Coal field Limited, Bina Project, Bina Sonbhadra vide their letter dated 15.02.2024 has informed that Smoke was seen on dated 04.06.2023 and Project Authority had controlled this smoke with the help of firefighting team on 09.06.2023. Ambient air quality monitoring was done two times in

the month of June, 2023. As per the monitoring results, the parameters are within the prescribed limit.

4. That as per joint committee report, there was no proper/adequate arrangement made by the Project Authority to prevent fire in the stored reject coal yard of deshaling plant and to prevent wide spread pollution in area. Accordingly, UPPCB vide letter no. H07066/C-2/vaayu-155/2024 Dated 16.02.2024 has issued Show- cause notice to M/s Northern Coalfields Limited, Bina Project, Post-Bina, Sonbhadra to impose Environmental Compensation for defaulting periods.

5. That show cause notice was got received to proponent. Thereafter, the representation of the proponent vide letter dated 04.03.2024 was received in Regional Office, UPPCB, Sonbhadra. A copy of letter dated 04.03.2024 is being annexed herewith as Annexure-2 to this response.

6. That as per observations found by the joint committee and facts came into light from proponent's reply, Regional Officer, Sonbhadra vide its letter No. G0854/ OA No.643/2024 dated 05.09.2024 has recommended to confirm the show cause notice dated 16.02.2024 and subsequently Environmental Compensation of Rs 1,80,000/- was imposed against the unit vide letter no. H16925/C-2/vayu-155/Sonbhadra/24 dated 09.09.2024 A copy of letter dated 09.09.2024 is being annexed herewith as Annexure-3 to this response.

7. That the above response on behalf of the Respondent NO.-3, Uttar Pradesh Pollution Control Board, is submitted before this Hon'ble National Green Tribunal for perusal and kind consideration.”

6. Initially arguments were heard and judgment was reserved vide order dated 22.02.2024 but while going through the material on record, it was observed that notice had been issued by UPPCB to respondent no. 4 for imposition of Environmental Compensation for defaulting period but no further response had been filed by UPPCB and respondent no. 4 had not been given opportunity to file objections against the report of the Joint Committee. It was further observed that the applicant had claimed to have sent videos showing the gravity of incidents of fire but the videos had not been placed before the Bench. The videos were required to be looked into to assess the gravity/magnitude of the incidents of fire. It was also

observed that respondent no. 4 submitted reply dated 15.02.2024 to the Joint Committee that smoke was seen on 04.06.2023 and was controlled with the help of Fire Fighting Team on 09.06.2023 but the relevant record regarding the said incident was not produced by respondent no. 4.

7. In view of these facts and circumstances the matter was relisted for hearing and notices was ordered to be issued to the applicant and the respondents. The Registry was directed to trace out the video clips sent by the applicant and place the same on record and in the eventuality of same being not traceable, to contact the applicant with the request to send the video clips to this Tribunal.

8. Accordingly, a notice was issued to the applicant to appear before this Tribunal and the applicant was requested to send the video clips but the applicant has not appeared before this Tribunal and has not sent any video clips as mentioned in the application.

9. Objections to the report of the Joint Committee have been filed by respondent no. 4, vide email dated 11.09.2024 but in said objections, respondent no. 4 has claimed to have complied with the recommendations and suggestions made by the Joint Committee and has not in fact raised any objections against the same.

10. Vide order dated 12.09.2024, UPPCB was directed to verify the compliance status as mentioned in the objections filed by respondent no. 4 and submit its report.

11. In compliance thereof, UPPCB has filed response dated 09.12.2024 vide email dated 09.12.2024. The relevant part of the response reads as under:-

“7. That in compliance of above directions passed by the Hon'ble Tribunal, the officials of the UPPCB have visited the concerned Coal Mining Project i.e. M/s Northern Coal fields Limited, Bina Project, Bina, Sonbhadra on 29.11.2024. A copy of inspection report dated 29.11.2024 is being annexed as Annexure No.-1.

8. The detailed point wise Compliance Status of Recommendations/suggestions made in the joint committee report dated 19.02.2024 and facts found during visit are mentioned in tabulated chart as below:-

S. No	No Joint Committee recommendation and suggestions in report dated 19.02.2024	Compliance Status/Facts found during visit dated 29.11.2024.
1	The Project Authority should install smoke detector censors and CCTV cameras in desheling yards for regular vigilance of fire/ smoke.	➤ During inspection, deshelling plant was found non-operational. PTZ and CCTV Cameras are found installed at deshelling plant and no stock of coal reject was found in reject yard area of deshelling plant. A Copy of Stock Figure-2024-25 of NCL Bina Project is attached as Annexure No.2. ➤ During inspection, representative of NCL Coal Mine informed that the deshelling plant is non-operational, since Dec. 2023 and smoke detector censors will be installed, during operational of deshelling plant.
2	The Project Authority must ensure that in storage yard the reject coal should not catch fires/ smoke.	➤ During inspection representative of NCL Coal Mine also informed that a separate firefighting team has been organized/ deployed to ensure that in coal reject storage yard reject coal should not catch fires/ smoke. ➤ To control/ fire in coal necessary arrangement like fire tankers, water pipelines with sprinkling arranged are found established in deshelling for controlling any such future incidents. ➤ During inspection representative of NCL Coal Mine informed that Regular (daily) inspection is being carried out by supervisory staff and periodic inspection is being carried out by Fire fighting office, Safety officer, Mine Manager and Project Officer for ensuring no such incidents are repeated.
3	The Project Authority must construct boundary wall surrounding the yards and install	➤ During inspection representative of NCL Coal Mine informed that Proposal for construction of a

	<i>water sprinkler systems to control fire/smoke.</i>	<i>new brick boundary wall surrounding the yards has been initiated which is under tendering process. Construction Work of boundary wall will be started after finalization of tendering process.</i> ➤ <i>Further, to control fire incidents Pump houses along with water storage capacity of about of 3.5 Lakh litres was found installed at 100 m of deshelling reject yard for pressurized water.</i>
4	<i>The Project Authority must ensure water sprinkling in connecting roads of yards to reduce dust emissions during vehicular movement.</i>	➤ <i>During inspection fixed sprinklers are found installed on along the RCC Road connecting deshelling plant.</i>
5	<i>The project Authority must comply the rules/orders issued by department for fire safety and environmental pollution control and prevention.</i>	➤ <i>During inspection project was found complying.</i>
6	<i>UPPCB should impose environmental compensation for past violation as per law.</i>	➤ <i>UPPCB has imposed Environmental Compensation of Rs. 180,000/-vide ref. No. H16925/C-2/Vayu-155/Sonbhadra /24 dated 09.09.2024 on above concerned Coal mining project for defaulter period. A copy of EC imposed is annexed as Annexure No.3.</i> ➤ <i>Further, NCL Bina Project, Bina, Sonbhadra vide its ref no. बीना/पर्यावरण/2024/39 dated 11.11.2024 informed that Environmental compensation of Rs. 1,80,000.00/- imposed by UPPCB on mining project has been paid by M/s NCL Bina Project, Bina, Sonbhadra. A copy of letter dated 11.11.2024 is being annexed as Annexure No.4.</i> ➤ <i>Photographs of the site visit are being annexed as Annexure No.5.</i>

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12. UPPCB imposed Environmental Compensation of Rs. 1,80,000/- on Respondent No.4 vide order dated 09.09.2024.

13. The amount of Environmental Compensation has been deposited by Respondent No. 4 with UPPCB.

14. None has appeared for the applicant even today and no objections have been filed by the applicant or any other person to the report of the Joint Committee and also to the above said response filed by UPPCB.

15. We have heard Mr. Pradeep Misra, learned Counsel for UPPCB and Mr. Ashutosh Thakur, learned Counsel for Respondent No.4-Project Proponent and we have gone through the material on record carefully.

16. We find from report submitted by UPPCB that PTZ and CCTV cameras were installed at the deshelling plant, separate firefighting teams have been organized and deployed, requisite fire tankers, water pipelines with sprinkling arrangements were found established in deshelling plant and tendering process has been initiated for construction of boundary wall. Deshelling plant was found non-operational since December, 2023. Smoke detector sensors will be installed as and when deshelling plant becomes operational.

17. In view of the above, no further directions are required to be given so far as the grievances made in the original application are concerned.

18. However, we find that UPPCB has not looked into the relevant aspects as to whether deshelling work is completely abandoned/stopped or Respondent No. 4-Project Proponent is carrying out de-shelling work at some other place and if so, whether the requisite precautions and safety measures have been adopted and requisite equipments for preventing and controlling air pollution and preventing fire hazards have been installed at that place/in that area or not.

19. UPPCB is directed to look into these aspects and take appropriate remedial action in accordance with law. UPPCB is also directed to prepare an action plan for utilization of the amount of Rs. 1,80,000/- deposited by

Respondent No. 4-Project Proponent with it by carrying out plantation in the affected area for restoration/improvement of environment in the affected area within six months.

20. In view of the above, the present original application is disposed of with directions to UPPCB as mentioned above.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

December 10th, 2024
Original Application No. 643/2023
AB