

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 617/2022

IN THE MATTER OF:

1. Mr. Pushpender,

Berni Village, Post Bemra, Shankargadh,
Tehsil Bara, District Prayagraj, U.P.

...Applicant

Versus

1. State of Uttar Pradesh,

Through Chief Secretary,
Government of Uttar Pradesh,
First Floor, Room No. 110, Lalbahadur Sastri Bhawan,
Uttar Pradesh Secretariat, Lucknow - 226001,
Email Address: csup@nic.in

2. Member Secretary, Uttar Pradesh Pollution Control Board

Building No. TC-12V, Vibhuti Khand,
Gomti Nagar, Lucknow-226010
Email: ms@uppcb.com

3. District Magistrate, Prayagraj

Dwarika Puri, Old Katra, Prayagraj,
Uttar Pradesh-211002
Email: dmallgnic.in

4. M/s Prayagraj Power Generation Company Limited (PPGCL)

PO- Lohgara, Tehsil-Bara, Prayagraj-212107,
Tehsil Bara, Allahabad
Email: ppgcl@ppgcl.co.in

5. M/s Ultratech Cement Limited

4th Floor, 25 Tulsiani Grace,
Edmonston Road, Civil Lines, Prayagraj,
Uttar Pradesh-211001
Email: ultratech.communication@adityabirla.com/
sharesutcl@adityabirla.com

...Respondents

Counsel for Applicant:

None for the applicant.

Counsel for Respondents:

Mr. Ankit Verma, Advocate for respondent no. 1-State of U.P. and
respondent no. 3-District Magistrate, Prayagraj.
Mr. Arvind Kumar, Advocate for respondent no. 2-UPPCB (through VC).

Mr. Shri Venkatesh, Mr. Anant Singh Ubeja and Mr. Kunal Veer Chopra,
Advocates for Respondent No. 4- PPGCL (through VC).
Ms. Nandita Chauhan, Proxy Counsel for Respondent No. 5 (through VC).

PRESENT:

HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

Judgment Reserved on:- 22.04.2024

Judgment pronounced on :- 22.05.2024

Application is registered based on a letter petition received by Email.

Judgment

PRONOUNCED BY: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JM

1. Mr. Pushpender resident of Village Berni, Post Bemra, Shankargadh, Tehsil Bara, District Prayagraj, Uttar Pradesh has sent to this Tribunal the present letter petition by email, which has been treated and registered as Original Application no. 617/2022.

2. The grievances in this application are that M/s Tata Company and Ultratech Company are causing pollution by storage of cement brought by trucks to village Berni, Tehsil Bara, District Prayagraj in Uttar Pradesh and discharging waste water which has contaminated drinking water and rendered the same unfit for consumption. The relevant portion of the letter petition enumerating the grievances of the applicant reads as under:

“विषय: टाटा कम्पनी एवं अल्ट्राटेक सीमेंट अत्यधिक प्रदूषण फैलाने का संबंध में
महोदय

मैं पुष्पेन्द्र सिंह पाता ग्राम बेरुई पोस्ट बेमरा शंकरगढ़ थाना शंकरगढ़ तहसील बारा
जिला प्रयागराज उत्तर प्रदेश का स्थाई निवासी हूँ महोदय जी हमारे यहाँ टाटा और
अल्ट्राटेक सीमेंट कंपनी है ये कंपनी पुरे गांव में प्रदूषण फैला रही है हमारा गांव

कंपनी के बाउंड्री से एकदम सटा है कंपनी अपने बाउंड्री के अंदर सीमेंट के राखड़ ट्रको के माध्यम से स्टोर करती है जिससे पुरे गांव में वायु प्रदुषण हो रहा है कंपनी गांव से ही अपना गन्दा पानी बहती है जिससे जल प्रदुषण भी हो रहा है गाओं का पानी अब पीने योग्य नहीं है

श्रीमान जी से निवेदन है की कंपनी के खिलाफ उचित कार्यवाई करके गांव केवल लोगो को प्रदुषण से बचाने की कृपा करे.”

3. Vide order dated 29.09.2022, this Tribunal constituted a Joint Committee and directed the same to verify the factual position and submit its report within one month. The relevant part of the order is reproduced below:-

*“3. Prima facie, the averments made in the application raise questions relating to environment arising out of the implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010. In view of the averments made in the application, we consider it appropriate that a Joint Committee be constituted to verify the factual position. Accordingly, we constitute a Joint Committee comprising of **CPCB, State PCB and District Magistrate, Prayagraj** and direct the same to meet **within three weeks**, undertake visits to the sites, look into the grievances of the applicant, associate the applicant and representatives of the concerned project proponents, verify the factual position and submit its report **within one month** by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF. The State PCB will be the nodal agency for coordination and compliance.*

4. In case the Joint Committee observes any violation of consent conditions/environmental norms, then it shall forward a copy of its report to:-

(i) The concerned Project Proponents to enable the same to comply with the recommendations in the report of the Joint Committee or file objections against the observations/recommendations contained in the same and file their response before this Tribunal as desired, **within one month from the date of receipt of a copy of the report of the Joint Committee**, by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF; and

(ii) the concerned Authorities including **State PCB and District Magistrate, Prayagraj** to enable them to take appropriate remedial action, in accordance with Statutory provisions mandating them to take remedial action for

prevention, control and abatement of environmental pollution/degradation and for protection and improvement of environment, by giving notice to/hearing the concerned project proponent and following due process of law and they shall submit their action taken reports separately, **within one month from the date of receipt of a copy of the report of the Joint Committee**, by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF... ”

4. In compliance thereof, report dated 16.01.2023 of the Joint Committee has been filed by Mr. R.K. Singh, Regional Officer, UPSPCB, Prayagraj vide email dated 17.01.2023. The relevant part of the report dated 16.01.2023 of the Joint Committee is reproduced below:-

“Joint Inspection Report on the matter of Pushpender Vs. State of Uttar Pradesh (O.A. No. 617/2022)

X X X

2. Constitution of Committee:

In pursuant of the said order, joint inspection of above was carried out on December 04-05, 2022 by a team comprising following officials:

- a. Dr. Devendra K. Soni, Regional Director, CPCB, Lucknow
- b. Sh. Harsh Dev Panday, ADM, Prayagraj
- c. Sh. R. K. Singh, Regional Officer, UPPCB, Prayagraj

3. Factual Position of Village Berni (Berui): -

Joint committee comprising Dr. Devendra K. Soni, Regional Director, CPCB, Lucknow, Sh. R. K. Singh, Regional Officer, UPPCB, Prayagraj and Sh. Harsh Dev Panday, ADM, Prayagraj along with the representative of project proponent Sh. Pankaj Kumar, Group Head Environment, M/s PPGCL, Bara, Prayagraj & Sh. Gopi Kishan Tiwari, Environment Officer, M/s Ultratech Cement Limited, Bara, Prayagraj and Applicant Sh. Puspendra Singh Yadav, resident of Village Berni (Berui), Post- Bemra, Shankargarh Tehsil- Bara, Prayagraj, have visited village Berni (Berui) to ascertain the factual status of complaint made by applicant

X X X

4) Details of the Project Proponent:-

A) M/s Prayagraj Power Generation Company Limited (PPGCL): M/s Prayagraj Power Generation Company Limited has established 3 x660 MW capacity coal fired supercritical thermal power plant at tehsil Bara of Prayagraj district in the state of Uttar Pradesh (India). The plant is situated on NH-76

at about 40 Kms from Prayagraj (Allahabad) city in south west direction. The nearest railway station BEVRA (Allahabad- Manikpur Section of NCR) is approx. 3 km from site. All the three units 1, 2 & 3 have achieved COD (Commercial Operation Date) on 20 February 2016, 10 September 2017 and 26 May 2017 respectively. The consent issued under Air Act 1981 & Water Act 1974 is valid up to 31.12.2025 and authorization for Handling of Hazardous Waste up to 04.10.2026 under Hazardous Waste (Management, handling and Transboundary movement) Rules, 2016.

X	X	X
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B) M/s Ultratech Company: The plant has established in 2021 as grinding unit with capacity 4 MTPA under "Ash Utilisation Plan" within the premises of 3x660 MW thermal power project for manufacturing of Portland Pozzolona Cement (PPC). The consent Issued under Air Act 1981 & Water Act 1974 is valid up to 31.12.2022 and authorization for handling of hazardous waste up to 31.07.2026 under Hazardous Waste (Management, Handling and Transboundary movement) Rules, 2016. The unit Is using fly ash as a raw material which was generated by the PPGCL. The unit has installed bag filter in cement mill unit for control to Particulate Matter.

X	X	X
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5) Visit of village Berui: -

The village Berui situated in the adjacent boundary of the M/s PPGCL and M/s Ultra tech Cement Limited. The living population in the village is approximate 250-300. Village is fully dependent upon the handpump for the drinking water and no pipe water supply available for them. M/s Prayagraj Power Generation Company Limited has installed 500 KLD RO plant under Corporate Social Responsibility (CSR) in Berui village for supply of drinking water. During visit **RO plant was found non-operational due to electricity issue**. The joint committee visited at Berui village along with the project proponent and complainant to ascertain the factual status of the Air and Water Pollution nearby areas. Committee had decided to collect the environmental samples i.e., Water and Ground water and Air Samples (PM_{3,0}) to evaluate the overall pollution status In the Berui Village.

a) Surface Water: -

The joint committee has collected the total three (03) surface water samples for the evaluation of pollution impact on surface water near the Berui village: -

- 1) Seasonal Natural Drain (SND) before the storm water drain coming from plant (M/s PPGCL and M/s Ultratech Cement) at near Railway Bridge culverts (Latitude: 25.18359, Longitude: 81.638956). (Picture-5)
- 2) Strom water drain coming jointly form M/s PPGCL and M/s Ultratech Cement limited (Latitude: 25.180655, Longitude: 81.640677). (Picture-6). The storm water drain

sample was also analyse for heavy metal contents such as Co, Cr, Cu, Fe, Mn, Pb and Zn. Except **iron content that was 1.38 mg/L and Zn content was 0.36 mg/L** the concentration of all other heavy metal was found below detectible limit.

3) Seasonal Natural Drain (SND) after meeting the storm water drain coming from plant (M/s PPGCL and M/s Ultratech Cement area) downstream (Latitude: 25.180400, Longitude: 81.640909).(Picture-9)

X X X X

Table 1: Analysis report of sample collected from surface water source

S. No.	Parameter	Sampling Location			General Discharge standard
		Upstream of Seasonal Natural Drain	Storm Drain coming from Industry	Downstream of Seasonal Natural Drain	
1	pH	7.53	7.82	7.89	5.5-9.0
2	Temperature (°C)	20	21	20	Shall not exceed 5°C above the receiving water temperature
3	Colour (Hazen)	05	10	10	--
4	Suspended Solid (mg/L)	< 2.5	6.48	2.81	100
5	TDS (mg/L)	1918	2018	1852	--
5	Chloride as CI (mg/L)	416	239	365	—
6	Sulphate as SO4 (mg/L)	888	619	745	-
7	Phosphate (mg/L)	< 1.5	< 1.5	<1.5	5.0
8	Nitrate (mg/L)	< 2.2	11.4	12.4	10
9	Ammonical Nitrogen (mg/L)	< 0.5	< 0.5	< 0.5	50
10	COD (mg/L)	88.3	110	64.8	<u>250</u>
11	BOD (mg/L)	26.2	44	9.90	30

b) Ground Water Sampling; -

The joint committee has collected the ground water samples to ascertain the Impact of pollution on ground water quality from various locations.

- 1) Sh. Puspendra Singh Yadav house (Latitude: 25.188201, Longitude: 81.647860),(Picture-9)
- 2) Shiv Shankar Yadav house (Latitude: 25.188603, Longitude: 81.647275) (Picture-10) and
- 3) Primary School (Latitude: 25.189316, Longitude: 81.647704) (Picture-11) for the purpose to know the actual drinking water quality of village.

X

X

X

Table2: Analysis report of sample collected from Ground water at village berui:

S. No.	Parameter	Sampling Location			IS10500:2012 (Drinking water - specification) (Acceptable/ Permissible limit)
		Applicant House	Shiv Shankar Yadav House	Primary School, Berul Village	
1	pH	6.33	6.65	6.73	6.5-8.5
2	Temperature (°C)	2.3	2.3	2.3	--
3	Conductivity (us/cm)	1602	2483	1178	--
4	TDS (mg/L)	1069	1670	762	500/2000
5	Total Hardness (mg/L)	394	736	371	200/600
6	Calcium as Ca ²⁺ (mg/L)	120	224	61	75/200
7	Magnesium as Mg ²⁺ (mg/L)	23	43	37	30/100
8	Sodium (mg/L)	173	201	92	--
9	Potassium (mg/L)	20	84,4	1.48	--
10	Chloride as Cl' (mg/L)	180	328	112	250/1000

11	Fluoride as F- (mg/L)	< 0.5	< 0.5	0.604	1/1.5
12	Sulphate as SO ₄ ²⁻ (mg/L)	299	502	173	200/400
13	Phosphate (mg/L)	< 0.06	< 0.06	< 0.06	--
14	Nitrate (mg/L)	< 2.2	8.57	12.5	45
15	Alkalinity (mg/L)	226	218	296	200/600
16	COD (mg/L)	13.1	6.1	6.0	—

c) Ambient Air Quality Monitoring: -

The joint committee has performed the ambient air monitoring at Berui village to ascertain the pollution level in referenced area: -

- 1) Respirable Dust Sampler (RDS) installed for monitoring of SO₂, NO₂ and Particulate Matter (PM₁₀) pollutants at Berui village on the terrace of residence of complainant Sh. Puspendra Singh Yadav (Latitude: 25.188201, Longitude: 81.647860).
- 2) Ambient air quality being monitored by the M/s PPGCL (installed at three locations, 1- Horticulture area (CAAQMS 1) , 2- ITI college(CAAQMS 2), 3-Coal Handling Plant (CHP) area (CAAQMS 3)) and M/s Ultratech Cement Limited (installed at two locations, 1- Near Gypsum storage area (CAAQMS 4), 2- Main Gate of Industry (CAAQMS 5)), Bara adjacent to Berui village using Continuous Ambient Air Quality Monitoring Station (CAAQMS), have also been considered for the evaluation of the ambient air quality to assess the impact of the industrial activities.

Table 3: Ambient air quality at different locations:-

S. No,	Location		Parameter		
			SO ₂ (ug/m ³)	NO ₂ (ug/m ³)	PM ₁₀ (ug/m ³)
1	Applicant House(AAQMS)		6.08	17.84	106.33
2	M/s. PPGCL	CAAQMS 1	< 6.0	25.2	88.4
3		CAAQMS 2	7.0	32.3	90.2
4		CAAQMS 3	7.2	37.1	97.2
5	M/s Ultratech	CAAQMS 4	--	-	86.65
6	Cement Limited	CAAQMS 5	--	-	81.25
National Ambient Air Quality Standards			80	80	100

6) Conclusion and Recommendations:

- During the visit the Air and Water pollution level has been assessed for pollution sensitive parameter as per complaint made by applicant. the pollution level during the visit in general

was not found alarming level **barring few parameters such as an Ambient Air (PM₁₀), Drains (BOD and Nitrate) and in Ground water (pH, Calcium Sulphate) were found marginally higher than the prescribed norms (PM₁₀— 6.33 %, BOD- 46%, Nitrate- 14 %, Calcium- 12% and Sulphate- 25%).**

- Both project proponent M/s PPGCL, Bara, Prayagraj & M/s Ultratech Cement Limited, Bara, Prayagraj have installed the air pollution control device at desired locations and process. Details of the APCD is annexed as annexure II & III for reference.
- Since Berui village is adjacent to boundary wall of M/s Ultratech and M/s PPGCL, **the possibility of adverse impact of the Air pollution issue during summer or dry weather condition when the wind direction would be towards the village will appear, as the activities (such as handling of gypsum or other raw material, movement of heavy vehicle, constructions, handling of fly ash/bottom ash, coal handling etc.) which has got high potential of Air pollution is being carried out by the both project proponent.** Therefore, the joint committee advice to take following measure to improve and maintain the environmental condition to the surrounding proximity area.

M/s Ultratech Cement Limited:-

- Gypsum handling yard which found almost open during visit. **Gypsum yard requires to be covered and all the transfer points on the conveyor belts or hoppers to be equipped with the air pollution control devices i.e, dust extraction as well as dust suppression system** to prevent and contain the dispersion of air pollution from this area.
- The fugitive emission from construction activities being carryout within the plant area requires to be accomplish using appropriate protocol.
- The **M/s Ultratech Cement Limited has not given adequate attention on plantation and their survivals in and around the plant.** The appropriate green belt (using different height of indigenous plant species capable of arresting air pollutants) requires to be developed to prevent air pollution in the surrounding habitation.
- Movement of the vehicle should be followed by the dust separation system within the plant.
- **The storm water drain should be used as storm water drain not for discharging the waste water.** Wastewater generated by different activities should be diverted to ETP for treatment.
- Project proponent ensure the deployment of Dust Separation System and Dust Extraction system appropriately covering all the transfer and handling points within the plant to avoid any kind of fugitive emissions.

M/s Prayagraj Power Generation Company Limited (PPGCL):

- Ash handling plant/ ash dyke of M/s PPGCL has high potential of air pollution particularly in dry season, required to be appropriately manage to reduce the Air pollution as per the notifications made in this regard.
- **Dust Separation System and Dust Extraction System** should be deployed appropriate within the plant (particularly

ash handling, coal handling plant) to avoid Air pollution dispersion in the surrounding area.

- *M/s PPGCL should maintains their road conditions, vehicle etc. to reduce the line source of air pollution in and around the unit.*
- ***Still scope of the enhancement of green belt near the boundary wall of village persist, therefore, project proponent required increase the width of the green belt aligned to their boundary wall.***
- *M/s PPGCL has installed 500 KLD RO plant under corporate social responsibility (CSR) in Berui Village for supply of drinking water. During visit RO plant found non-operational, **M/s PPGCL should ensure proper functioning and maintenance of RO plant installed by them for supply of drinking water as no piped water supply made for the villager.***
(emphasis added)

5. Vide order dated 23.01.2023 this Tribunal impleaded (1) the State of Uttar Pradesh, through Chief Secretary, Government of Uttar Pradesh; (2) the Member Secretary, Uttar Pradesh Pollution Control Board (UPPCB); (3) the District Magistrate, Prayagraj; (4) M/s Prayagraj Power Generation Company Limited (PPGCL) and (5) M/s Ultratech Cement Limited (UTCL), as respondents no. 1 to 5 and ordered issuance of notices to respondents no. 1 to 5 requiring them to file their reply/response.

Reply filed by respondent no. 4

6. Respondent no. 4-PPGCL has filed reply dated 30.03.2023 vide email dated 01.04.2023. In its reply Respondent no. 4-PPGCL has dealt with the observations made by Joint Committee and the clarifications sought by UPPCB in respect thereto in a point-wise manner and the relevant part thereof is reproduced as under: -

*“A. Deployment of Dust Separation System and Dust Extraction System within the plant to avoid air pollution:-
10.2. It is respectfully submitted, that the requirement of the Dust Separation System and Dust Extraction System has not been fully appreciated by JC in its Report in as much as the observations made in respect thereto does not take into account the fact that PPGCL has had the adequate infrastructure which*

includes the Dust Separation System and Dust Extraction System, even prior to the joint inspection conducted by JC. PPGCL continues to have and hold such infrastructure and systems in place which are in working condition continuously and even as on filing of the present reply. The Photographs of the Dust Separation and Dust Extraction System are annexed hereto and marked as ANNEXURE R4/2.

10.3. To elaborate further, PPGCL has also installed bag filters at material transfer points in coal and ash handling plant area. In addition to this, the Dust Separation System like fogging system in wagon tippler and rainwater guns have been installed in the coal handling area. Thus, keeping in view the fact that PPGCL has taken adequate measures the question of any further deployment and/or development of any necessary infrastructure does not arise.

B. Maintenance of road conditions by PPGCL so as to reduce air pollution in and around the unit:-

10.4. In respect of the maintenance of road by PPGCL it is stated that PPGCL has constructed pucca (metalled) road in and around the unit for the purposes of transportation/ conveyance of Fly Ash from one unit to the other. The Photographs of the metalled road in the vicinity of PPGCL used for transportation of the Fly Ash are annexed hereto and marked as ANNEXURE R4/3.

10.5. PPGCL, like any other TPP, has ready supply of water tankers which are primarily responsible for sprinkling of water on the roads. The Photographs of the water tankers maintained by PPGCL is annexed hereto and marked as ANNEXURE R4/4.

C. Scope of further enhancement/ widening of the greenbelt area near the boundary wall of the village:-

10.6. In respect of the said issue, it is submitted that PPGCL has until September 2022 already planted and **maintained 3,34,060 saplings for the purposes of the development of the green belt and approximately 20,520 saplings were also planted during the monsoon season in FY 2022-2023.** The efforts undertaken by PPGCL in maintaining the saplings can also be substantiated from the fact that out of the 3,34,060 saplings planted in the month of September 2022, 90% of the saplings have survived as on date.

10.7. At this juncture, it is also worth stating that one of the primary objectives of PPGCL during the upcoming monsoon season is to plant more saplings so as to increase the green plantation in and around its boundaries to improve the environment and ambient air quality. The Photographs exhibiting the greenbelt area around the boundary of PPGCL is annexed hereto and marked as ANNEXURE R4/5.

D. PPGCL to ensure proper functioning and maintenance of 500 KLD RO Plant installed under the Corporate Social Responsibility in Berui village:-

10.8. As far as the issue of proper functioning and maintenance of the RO Plant as pointed out by JC vide its Report dated 17.01.2023 are concerned, the following facts are worth noting:

(a) PPGCL, as part of its Corporate Social Responsibilities ("CSR"), has installed a 500 KLD RO plant in Berui village for the purposes of supply of drinking water to the local villagers.

Further, the expenditure incurred towards the installation of the said plant has been borne by PPGCL solely.

(b) While PPGCL has already discharged its responsibility towards installation of the RO Plant as part of its CSR obligations, the maintenance, operation, payment of electricity bills, regulation of quantity of water to be supplied and other decisions in respect thereto are to be taken by the Gram Panchayat. This fact can be demonstrated by the letter dated 30.06.2021 issued by PPGCL to the Gram Pradhan of village Berui. A true copy of the Letter dated 30.06.2021 of handing over of the RO Plant by PPGCL to the Gram Pradhan is annexed hereto and marked as ANNEXURE R4/6.

(c) That being said, from the Report submitted by JC, it appears that JC has raised concerns over the non-operation of the said RO plant. In this regard, it is respectfully submitted that the issue of non-operation of the RO plant is not attributable to PPGCL in as much as the reasons for its non-operation are on account of inadequate voltage supply. In fact, as per the letter dated 30.06.2021, it is abundantly clear that the responsibility of maintenance and operations of the RO plant lies with the Gram panchayat.

(d) Despite this being the case, PPGCL being a diligent entity is taking earnest steps and is running from pillar to post to resolve the said issue as expeditiously as possible. In this regard, a letter dated 11.02.2023 has been issued by PPGCL to Sub-Divisional Magistrate ("SDM"), Bara, Prayagraj, UP, thereby requesting it to look into the said matter and make necessary alternate arrangements for changing of the transformer so that proper/ adequate voltage can be supplied to the RO plant, which would then ensure continuous operations of the said RO plant. A true copy of the letter dated 11.02.2023 written by PPGCL to SDM requesting the change of location of the transformer in the village is annexed and marked hereto as ANNEXURE R4/7.

(e) PPGCL also undertakes and would continue to take necessary steps in this regard, so that the said issue can be addressed expeditiously.

E. Ash handling plant/ Ash dyke of PPGCL having a risk of air pollution requires appropriate management:-

11. In this regard it is respectfully submitted that PPGCL being a TPP is solely engaged in the business of generation and sale of electricity and is not even remotely connected with manufacturing of cement. Thus the question of contamination of water and / or air pollution on account of the alleged storage of cement brought by trucks as recorded by this Hon'ble Tribunal vide its order dated 29.09.2022, does not arise.

11.1. Since the process of generation of electricity entails the discharge of Fly Ash, PPGCL is under a bounden obligation for the safe utilisation of the Fly Ash. The said obligation is being adequately discharged by PPGCL in light of the prescribed norms and directives issued by the Ministry of Environment, Forest and Climate Change ("MoEF&CC") vide its Notifications in 1999, 2009, and 2021 ("Fly Ash Notifications"). The relevant extracts of the Fly Ash Notifications are reproduced hereinbelow for ease of reference :-

(a) The 1999 Fly Ash Notification deals with the following:-

“2. Utilisation of ash by Thermal Power Plants.

All coal or lignite based thermal power plants shall utilise the ash generated in the power plants as follows:

(1) Every coal or lignite based thermal power plant shall make available ash, for at least ten years from the date of publication of this notification, without any payment or any other consideration, for the purpose of manufacturing ash-based products such as cement, concrete blocks, bricks, panels or any other material or for construction of roads, embankments, dams, dykes or for any other construction activity.

(2) Every coal or lignite based thermal power plant commissioned subject to environmental clearance conditions stipulating the submission of an action plan for full utilisation of fly ash shall, within a period of nine years from the publication of this notification, phase out the dumping and disposal of fly ash on land in accordance with the plan. Such an action plan shall provide for thirty per cent of the fly ash utilisation, within three years from the publication of this notification with further increase in utilisation by at least ten per cent points every year progressively for the next six years to enable utilisation of the entire fly ash generated in the power plant at least by the end of ninth year. Progress in this regard shall be reviewed after five years

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 Departments and other Central and State Government agencies....”

[Emphasis Supplied]

(b) The 2009 Notifications which brought the following amendments in the 1999 Notifications :-

“(1A) Every construction agency engaged - the constructing of buildings within a radius of hundred kilometers from a coal or lignite based thermal power plant shall use only fly ash based products for construction, such as: cement or concrete, fly ash bricks or block or tiles or clay fly ash bricks, blocks or tiles or cement fly ash bricks or similar products or a combination or aggregate of them, in every construction project products or a combination or aggregate of them, in every construction project.”

[Emphasis Supplied]

(c) The 2021 Notifications also mandates a TPP to safely dispose of Fly Ash, the relevant clause is reproduced hereinbelow:-

“A. Responsibilities of thermal power plants to dispose fly ash and bottom ash.-

(1) Every coal or lignite based thermal power plant (including captive or co-generating stations or both) shall be primarily responsible to ensure 100 per cent utilisation of ash (fly ash, and bottom ash) generated by it in an eco-friendly manner as given in sub-paragraph (2);

(2) The ash generated from coal or lignite based thermal power plants shall be utilised only for the following eco-friendly purposes, namely:-

(i) Fly ash based products viz. bricks, blocks, tiles, fibre cement sheets, pipes, boards, panels;

(ii) Cement manufacturing , ready mix concrete; ”

[Emphasis Supplied]

True copies of the Fly Ash Notifications are annexed here with and marked as ANNEXURE R4/8 (Colly.).

11.2. A bare perusal of the Fly Ash Notifications makes it categorically clear that PPGCL being a TPP is bound to follow the statutory directives qua the safe disposal of Fly Ash. While on one hand, PPGCL is bound to follow the directives issued by the MoEF&CC, however on the other hand it is also under a bounden obligation to ensure that the conveyance / transportation/ disposal of Fly Ash does not cause any air/ water pollution in the vicinity of the plant in any manner whatsoever in this regard, PPGCL has taken following steps:-

(a) Primarily, PPGCL is utilising the Fly Ash for the purposes of cement and brick manufacturing which is undertaken by other cement and brick manufacturing companies.

(b) The ash handling plant established by PPGCL is collecting Fly Ash from the ESP Hoppers and is conveyed to Silos through pipe conveying system.

(c) Bottom Ash, which is discharged from the plant is also conveyed to the ash pond in the form of slurry, because of which ash lying in the ash pond has moisture content and does not become air borne. Further, the ash collected in the pond are being utilised in road construction and reclamation of low lying areas.

(d) During dry season, PPGCL has made additional arrangements to ensure that water flows in the ash pond through the slurry discharge line so that the area remains moist.

(e) PPGCL also ensures that transportation of Fly Ash to Respondent No. 5 is carried out in a controlled and cautious manner. Further, for the purpose of carrying out the said purpose, PPGCL has long term tie ups with Respondent No. 5 and other cement manufacturing companies/traders which utilise Fly Ash.

(f) Moreover, PPGCL also undertake the safe disposal of Fly Ash by conveying the same through railway wagons and is being utilised for the purposes of road construction.

(g) PPGCL has installed an effluent treatment plant to treat the process waste water. The waste water generated from process is collected, treated in effluent treatment plant and is reused back in the process. Hence, PPGCL ensures two things, firstly that waste water is not freely discharged, rather it is treated and reused; secondly, the consumption of fresh water is reduced in the process.

(h) PPGCL has also established a brick unit which has been handed over to NGO for the purposes of manufacturing of brick and paver block, through utilisation of Fly Ash.

Re. Compliance of the Ash Utilisation Policy issued by PPGCL:-

12. In view of the various MoEF&CC Notifications and to achieve hundred percent (100%) of Fly Ash utilisation, PPGCL had issued a circular titled "Ash Utilisation Policy" dated 01.04.2022 ("PPGCL Policy") which PPGCL has been unequivocally endorsing while undertaking any project activity. The same is also evident from the supply of the Fly Ash to Respondent No. 5 by PPGCL for its safe disposal.

12.1. In the present case, PPGCL has followed the said Policy in letter and spirit and accordingly has been supplying the Fly Ash to the Respondent No. 5 as stated above for safe disposal of Fly Ash. A true copy of the PPGCL Policy dated 01.04.2022 is annexed here with and marked as ANNEXURE R4/9."

7. Respondent No.4-PPGCL has prayed that in the light of the facts and circumstances stated in its reply the present OA may be disposed of qua PPGCL.

Reply filed by respondent no. 5-M/s Ultratech Cement Ltd

8. Respondent no. 5-UTCL has filed reply dated 18.04.2023 vide email dated 20.04.2023. In its reply respondent no.5 has submitted that the present Applicant has approached this Tribunal without any research and on the basis of half-baked information. The Joint Committee in its report has categorically found that no air pollution or water pollution has been caused and has inter alia made the observations that Respondent No.5 has installed pollution control devices to control particulate matter; in the surface water, except iron content of 1.38 mg/l and zinc content of 0.36 mg/l no other heavy metal was detectible; the analysis sample collected from surface water source and ground water source was within parameter. However, some parameters were found 'marginally higher'; no alarming level of pollution was found during the visit and Respondent No. 5 has not been found to be polluting. Respondent No.5 has been

operating its Grinding Unit in compliance of all the conditions of the EC dated 28.11.2014. It is an environmentally conscious establishment for utilization of fly ash generated from the thermal power plant which has installed all the necessary high efficiency pollution control devices to prevent any pollution from its unit in the neighboring village. The Joint Committee in view of possibility of adverse impact of air pollution has recommended certain measures to improve and maintain environmental conditions. Respondent No.5 has already undertaken the recommended measures as is evident from compliance reports filed with respect to EC & CTO conditions and is in the process of complying with certain recommendations, even though it has not been found to have caused any air or water pollution.

9. Respondent No.5 has submitted its response to the conclusions and findings and six recommendations of the Joint Committee as under:-

"i. Gypsum handling yard was found open and requires to be covered and all transfer points are required to be equipped with air pollution control devices as well as dust extraction and suppression systems (to prevent and contain dispersion of air pollution from the area).

While the specific observations with respect to the gypsum handling yard have been addressed, it is also pertinent to note that the Unit is also subject to regular compliance of the conditions in the Consent to Operate under the Water Act dated 25 July 2021 and under the Air Act dated 25 July 2021 which require the Unit to ensure that it is equipped with pollution control devices to deal with air pollution. Specifically, the relevant General Conditions of the CTO under the Air Act are No. 4 and 6. The Specific Conditions of the CTO under Air Act are Specific Conditions No. 4,5,6,7,8,11 which are reproduced herein below:

Relevant Specific Conditions in the consent granted to the Unit under the Air Act are as follows:

"4. Industry shall comply with the Ambient Air Quality Standard 2009"

"5. The industry shall operate and maintain installed APCS in such a manner to achieve the emission standards as prescribed under Environment (Protection) Rules, 1986"

"6. Industry shall operate and maintain water sprinkler to suppress dust inside the premises. Industry shall maintain

proper housekeeping and proper dust control arrangement at loading and unloading areas."

"7. Industry has established Ambient Air Quality Monitoring Stations at 2 locations. Industry shall establish Ambient Air Quality Monitoring Stations at 01 more locations at 120 degree apart from each other with connectivity to CPCB server within 3 months"

"8. Industry shall install online continuous emission monitoring system and ensure its connectivity to CPCB server. Industry shall also calibrate installed OCEMS facility from recognised agency on six monthly basis."

"11. Industry shall submit the stack/ambient air monitoring report of NABL accredited laboratory within 1 month and thereafter on quarterly basis to the Board"

Additionally, General Condition Nos. 3, 11, 12 and 13 of the EC are also relevant for the aforesaid recommendation and provide for regular submission of reports highlighting the status of emissions of PM10, PM 2.5, SO2 and NOX and require that the same are subjected to the scrutiny of the Regional Office of the MoEF&CC alongwith the CPCB and the SPCB.

Therefore, the Unit is already subjected to regular monitoring and compliance in respect of the aforesaid recommendation and observation of the Joint Committee.

The latest Compliance Report in respect of the specific and general conditions of the EC was sent vide Letter dated 23 November 2022.

Further, it is submitted that the Answering Respondent has covered the gypsum storage shed. For covering of the Gypsum sheds on the side, GI sheets and curtains have been installed on the sides of the Gypsum Yard.

It is pertinent to note that gypsum inherently contains, 10% moisture content in it, due to which it does not have the tendency to fly or escape in the environment causing air pollution.

It is also pertinent to note that the Ambient Air Quality Monitoring Report for the location near the gypsum yard also shows that air quality is within the permissible limit. The same is also evidenced in the Fugitive Emission Monitoring Report of the Gypsum Yard. A copy of the Monitoring Report of the location near the gypsum yard is annexed hereto and marked as ANNEXURE R5/7. A copy of the Fugitive Emission Monitoring Report of the gypsum yard and the material transfer points are annexed hereto and marked as ANNEXURE R5/8(Colly.). The monitoring is carried out by laboratory accredited by MoEF&CC and National Accreditation Board for Testing and Calibration Laboratory (NABL).

It is pertinent to note that the data for ambient air, fugitive and stack emissions are required to be submitted to the Regional Office of the MoEF&CC, SPCB and CPCB on a regular basis as part of compliance of the Specific Condition No. 2 of the EC granted to the Unit. The same is being sent to the MoEF&CC bi-annually as part of the Compliance Report of the EC.

A copy of the Compliance Report dated 23.11.2022 showing compliance with EC conditions is annexed hereto and marked as ANNEXURE- R5/9.

A copy of the Compliance Reports dated 22.12.2022 showing compliance with CTO conditions of CTOs under the Air and Water is annexed hereto and marked as ANNEXURE- R5/10.:

Furthermore, all the transfer points of Gypsum are covered and equipped with adequate dust control systems. All the conveyor belts are covered and equipped with dust extraction system with high efficiency bag filters at all the material transfer points and raw material hoppers to prevent the fugitive dust emissions. It may be noted that as many as 35 number of bag filters have been installed at various material transfer points and raw material hoppers to prevent the fugitive dust emission. Copies of photographs of the gypsum storage yards and material transfer points such as conveyor belt are annexed hereto and marked as ANNEXURE-R5/11.

Detailed list of the bag filters installed at material transfer points is annexed hereto and marked as ANNEXURE -R5/12.

ii. There are fugitive emissions from construction activities within the unit area, which should be dealt with appropriately. It is submitted that the standalone Grinding Unit was taken over by the Answering Respondent in January 2020. The takeover entailed certain constructions considered appropriate and necessary for smooth functioning of the Grinding Unit by the new Management. It is pertinent to note that the construction works that were being undertaken and are referred to in the Joint Committee Report were constructions for environment improvement, such as, construction of concrete roads and paved area within the premises, covering of conveyor belts, installation of water sprinklers, covered shed for raw materials, storm water drain green belt plantations etc.

However, the onset of the COVID 19 pandemic followed by a complete lockdown starting from March 2020, resulted in halting of the works. Therefore, all the project activities that were initiated after the takeover in January 2020 could not be completed in a reasonable time.

It may be noted that besides the delay attributable to COVID 19, delay in construction projects was also attributable to an unusually high level of rainfall in the region which resulted into waterlogging across the plant severely impacting project construction as well as operation. In view of the same, the storm water drain was constructed to safeguard normal operations of the plant and prevent any undue delay in other works inside the Unit.

Once the COVID 19 pandemic settled down and the climatic conditions improved, project activities were resumed and completed entirely in December 2022. The Answering Respondent has spent approximately Rs. 15 crores for the construction of the aforementioned environment improvement infrastructure.

Copies of the photographs of the sprinkling system, concrete roads are annexed hereto and marked as ANNEXURE- R5/13 (Colly.).

Besides the aforesaid, it is pertinent to note that this recommendation of the Joint Committee has also been addressed in the General Conditions No. 4 and 6 and Specific Conditions No. 4,5,6,7,8 and 11 of the CTO under Air Act.

The aforesaid relevant conditions of the CTO under the Air Act have been duly complied with as also detailed in the compliance Report dated 22 December 2022.

Pertinently, as per General Condition No. 3 of EC, the Unit has installed 4 Ambient Air Quality Monitoring Stations and accordingly all the reports generated from the said stations are submitted periodically to the relevant authorities. However, till date, no authority has issued any notice for any violations of specified limits of emissions, including the period for when construction was underway in the Unit.

In compliance with Specific Condition No. 11 of the EC, the Unit has installed adequate mechanisms for dealing with fugitive emissions in the plant vicinity and the same is being uploaded on the website of the Respondent No.5.

Further, as per Specific Condition No.2 of the EC, Respondent No.5 is already submitting Fugitive Emission Reports and Ambient Air Monitoring Report along with other reports to the authorities to show that the emissions are under prescribed limit.

Furthermore, as per General Condition No.13 of the EC, Respondent No.5 is submitting the Environmental statement which captures all the reports related to Ambient Air Monitoring and Fugitive Emission Reports.

iii. Adequate attention has not been given to plantation and its survival in and around the plant. Appropriate green belt is required to prevent pollution in the surrounding area.

As stated in the preceding paragraphs, the takeover of the Grinding Unit was undertaken in January 2020 which was shortly followed with the onset of the COVID 19 pandemic and the lockdown. Therefore, several projects and activities that were initiated, including that of plantation in and around the Grinding Unit could not be attended to adequately for the next few months. Thereafter, the process of green belt plantation was resumed in the month of June 2020 and a total of 9775 saplings were planted between June 2020 to September 2020.

However, the area witnessed an unusually heavy rainfall in the month of August 2021, which largely affected the green belt plantation due to waterlogging and impacted the survival rate of the saplings severely. The rainfall was to the extent of 1275 mm and was the highest rainfall recorded in the region, in a very long time. It is pertinent to highlight that the area wherein the Grinding Unit is established is a low-lying area, therefore, water logging proved to be a big challenge in managing the survival rate of the green belt plantation. The Respondent No.5 has therefore constructed a storm water drain to arrest the flooding and waterlogging in the premises and has planted a total of 15,775 saplings of various species till date as per the Miyawaki System and is employing the best of efforts to elongate the life and survival rate of the saplings so planted.

Copies of the photographs of the flooding and waterlogging which destroyed the green belt plantation are annexed hereto and marked as ANNEXURE- R5/14.

Copies of the photographs of the green belt plantation undertaken by the Answering Respondent are annexed hereto and marked as ANNEXURE- R5/15.

Besides the aforesaid, it is pertinent to note that the concerns of the Joint Committee pertaining to the green belt and plantation have already been included in the EC as Specific Condition Nos. 4 and. 7 which are reproduced herein below:

"iv. A green belt of 50 to 100 meters width shall be provided all along the boundary of the plant. 3 to 4 layers of local trees shall be planted in the green belt."

"vii. Green belt (3-tier) approximately 15-20m width shall be developed in vacant areas, transfer points covering a total area of 33% of total plant area. Tree plantation shall be in down wind based on the prevalent wind direction at the site. The details of these including photographs taken in time series consistent for the same season every year shall be submitted as a part of six-monthly compliance report."

The Unit of the Respondent No.5 is continuously striving to ensure compliance with the aforesaid relevant specific EC conditions and the future action plan for the same have been provided in the Compliance Report for EC conditions dated 23 November 2022.

iv. Movement of vehicles should be followed by dust separation system within the plant.

It is submitted that the roads inside the plant premises are all concrete roads and regular sweeping is carried out on the roads by mechanized vacuum sweeping machines to minimize the fugitive dust emissions. Furthermore, as described in the preceding paragraphs, an elaborate sprinkling system has been installed in the plant for the purpose of sprinkling water which inter alia helps in suppression of dust .and arresting fugitive emissions.

Besides the sprinkling system, water tankers are also deployed to spray water on the haul roads and the unpaved areas around the Grinding Unit. This serves the purpose of suppression of dust and arresting' fugitive emissions in the neighboring areas.

Copies of the photographs depicting the fugitive dust emission suppression measures which include regular sprinkling, deployment of water tankers are annexed hereto and marked as ANNEXURE- R5/ 16.

Besides the aforesaid, it must be noted that the maximum speed permissible for vehicles in the premises is 10km/h which largely decreased the potential for pollution to be caused by movement of vehicles.

Specific Condition No.6 of the CTO under Act is relevant for the purpose of the aforesaid recommendation wherein it is provided that: "Industry shall operate and maintain water sprinkler to suppress dust inside the premises. Industry shall maintain proper housekeeping and proper dust control arrangement at loading and unloading areas." In compliance of the same, as already submitted hereinabove, water tankers are being used for suppression of dust. Further, vacuum sweeping machines are being used for regular cleaning.

Specific Condition Nos. 11, 12 and 16 of the EC are also relevant for the purpose of the aforesaid recommendation of the joint Committee along with the status of their compliance as detailed in the Compliance Report dated 23.11.2022 and are reproduced hereinbelow:

"xi. Dry fog system shall be adopted to control fugitive emission in screening plant, transfer points. Wet system like water sprays/sprinklers shall be provided for dust suppression at Belt Conveyor Discharge and Screen Discharge location. The raw material handling and processing area shall be provided with dust suppression systems. Water sprinkling arrangement shall be provided at raw material heaps."

Compliance: As per the Central Pollution Control Board Guideline for control of Fugitive Dust Emission in Cement Plant, unit has installed adequate number of dust controlling systems in the form of bag filters at every material transfer point. All the raw materials are stored in covered silos and shed. The raw material handling and processing is provided with dust suppression system. Water sprinkling is routinely carried out in roadsides and main gate.

"xii. Work zone floor shall be made concreted/asphalted. Internal roads shall be black topped. Regular sweeping/cleaning of roads shall be carried out to avoid accumulation of fine dust. Ensuring that road ways and vehicle wheels are kept clean"

Compliance: Work zone floors are concreted. Roads are regularly swept to avoid accumulation of fine dust and fugitive emissions by using sweeping machine continuously.

"xvi. Diesel powered vehicles and construction machinery are properly maintained to minimize the exhaust emission as well as noise generation. There shall be a separate area for their, parking. "

Compliance: All diesel-powered vehicles and construction machinery are maintained properly in order to minimize noise generated during vehicle movement. Separate parking areas are provided for heavy and light vehicles.

The same is also submitted to the MoEF&CC as part of the Compliance Report of EC Conditions which shows that the Respondent No.5 is working to ensure minimal air pollution through vehicular movements and that dust separation system is followed pursuant to the said vehicular movement.

v. Storm water drain should not be used for discharging waste water and waste water should be delivered to ETP for treatment.

It is submitted that the process of cement manufacturing undertaken at the unit of the Answering Respondent is a completely dry process which uses state of the art technology for grinding of clinker and Gypsum and mixing of fly ash. There is absolutely no waste water generated from the manufacturing of cement in the Unit of the Answering Respondent. Therefore, there is no possibility of waste water, which is a byproduct of the manufacturing process, being discharged through the storm water drains.

Furthermore, all the domestic sewage generated from the Unit of the Answering Respondent is being discharged and dealt with through a soak pit, therefore, it must be noted that there is no waste water that is being generated by the Unit at all.

As submitted in the preceding paragraphs, the Unit is constructed in a low-lying area. Therefore, often times, water from adjacent areas comes flowing into the storm water drain created for the purpose of safeguarding the Unit and its

operations from water logging. However, it must be noted that there is absolutely no waste water which is generated from the plant and therefore, there is no question of waste water being discharged in the storm water drain and the requirement of sending it to ETPs.

A flowchart of the manufacturing process depicting that the manufacturing process is dry is annexed hereto and marked as ANNEXURE- R5/17.

Copy of photographs depicting dry drainage and the storm water drain is annexed hereto and marked as ANNEXURE- R5/18.

Besides the aforesaid, it is submitted that the said recommendation of the Joint Committee has also been addressed by General Condition No.4 of the EC, which is reproduced hereinbelow:

"iv. Industrial waste water shall be properly collected, treated so as to conform to the standards prescribed under GSR 422 (E) dated 19th may, 1993 & 31st December, 1993 or as amended from time to time. The treated waste water shall be utilized for plantation purpose."

In the latest Compliance Report submitted to the MOEF&CC dated 23 November 2022 as well, it has been submitted that the present condition is inapplicable as the Cement Grinding is carried out through an entirely dry process in a closed circuit, hence, no waste water is generated. Additionally, the domestic waste is disposed in a soak pit. There have been no objections flagged to the same by the MoEF&CC, the SPCB or the CPCB. Therefore, the said recommendation is inapplicable and is misplaced.

In addition to the aforesaid, the General Condition Nos. 2, 3 and 6 of the CTO under Water Act and the Specific Condition Nos. 9 of the EC are also relevant for the said recommendation. The said conditions have been reproduced hereinbelow along with the status of their compliance as also submitted in the Report dated 22 December 2022 and 23 November 2022:

General Condition No.2, 3 and 6 of the CTO under Water Act:

2. The quantity of maximum daily effluent discharge should not be more than 9.0 KLD per day which is described as domestic effluent to be discharged in the septic tank.

"3. Arrangement should be made for collection of water used in process and domestic effluent separately in closed water supply system. The treated domestic and industrial effluent if discharged outside the premises, if meets at the end of final discharge point, arrangement should be made for measurement of effluent and for collecting its sample. Except the effluent informed in the application for consent no other effluent should enter in the said arrangements for collection of effluent. It should also be ensured that domestic effluent should not be discharged into the storm water drain"

Compliance: The Unit is entirely compliant as it is a zero liquid discharge industry. No industrial effluent is generated.

"6. The other pollutant for which norms have not been prescribed, the same should not be more than the norms prescribed for the water used in manufacturing process of the industry."

Compliance: The Unit is compliant.

Specific Conditions 9 of the EC:

"9. The Plant shall operate on a zero-discharge basis. Rainwater harvesting shall be adopted and the extent of requirement of water for the project from mines would be reduced. The detailed rain water harvesting plan including regular desilting operations carried out during pre-monsoon season shall be submitted as part of the 6 monthly compliance report."

Compliance: The Unit is a cement-grinding unit and will operated on a zero-discharge basis. No mine is associated with the project. Hence, utilization of mines water is not applicable. The rain water harvesting system has been adopted for the plant.

vi. Project Proponent must ensure development of dust separation and extraction systems appropriately covering all transfer and handling points.

As submitted in the preceding paragraphs, it must be noted that a total of 35 number of bag filters are installed to prevent the fugitive dust emission. Furthermore, it is pertinent to note that all transfer points are covered by sheeting as well as all belt conveyors are covered by canopies. Therefore, adequate provisions have been made for covering the material transfer points adequately to arrest fugitive emissions.

It may also be noted that a dust load study is also planned for the Grinding Unit of the Answering Respondent and any further appropriate steps required for arresting fugitive emissions shall be undertaken and updated routinely.

Besides the above, the Specific Condition Nos. 2, 6 and 9 of the CTO under the Air Act are also relevant for the present recommendation. While Specific Conditions Nos. 2 and 9 provide for compliance with the EC and ensuring that there is no air, water or soil pollution takes place on account of disposal of fly ash; Specific Condition No.6 as described in preceding paragraphs provides for employment of dust sprinklers and proper housekeeping practices to arrest fugitive emissions. As described in detail in the preceding paragraphs, the same has been complied with meticulously.

11. It is submitted that as per the EC granted to the Answering Respondent, certain specific and general conditions were imposed for the operation of the Grinding Unit which are similar to the recommendations made in the Joint Committee report. The compliance of the aforesaid conditions have routinely been sent by the Respondent No.5 by way of six month compliance status reports to the Deputy Director General of Forest, Lucknow. The latest Compliance Report in respect of the specific and general conditions of the EC was sent vide Letter dated 23 November 2022.

Furthermore, the Answering Respondent has also routinely submitted Compliance Reports of the Condition to Operate issued to the Answering Respondent. The latest Compliance Report in respect of the CTO was sent vide Letter dated 22 December 2022, which notes that the Unit of the Answering Respondent is fully compliant with all the Specific and General Conditions of the EC.

12. The compliances reports inter alia state the following which show compliance with the recommendations made by the Joint Committee:

i. The air pollution requirements are being complied with and the fugitive emissions as measured by particulate matters are within the prescribed norms. Further, the air pollution control system and monitoring, as proposed by the industry and approved by the Board have been installed in the premises;

ii. Unit of the Answering Respondent is complying with the Ambient Air Quality Standard, 2009;

iii. Unit of the Answering Respondent has installed online continuous emission monitoring systems and is connected to the CPCB server;

iv. Unit of the Answering Respondent is compliant with the Fly Ash Notification No. S.O. 254 (E) dated 25 January 2016;

v. Unit of the Answering Respondent is compliant with provisions of Noise Pollution (Regulation and Control) Rules, 2000;

13. In view of the aforesaid, it is submitted that the Answering respondent has put in place adequate infrastructure and measures to address all the concerns that have been raised by the Joint Committee in its Report dated 17 January 2023. Furthermore, the Unit is entirely compliant with all the specific and general conditions of the EC and other applicable consents.

The emissions from the Answering Respondent's Grinding Unit have always been within the permissible limits prescribed by law and till date, no complaint, action or even warning has been raised or adverse remarks made by any authority with respect to quality of air released by the Answering Respondent's Bara Grinding Unit. It is submitted that the online monitoring system monitors the emissions from the Unit of the Answering Respondent 24 x 7 and no violations can go unaddressed on the server. In case the server collects data and finds that the emissions are beyond the prescribed limits, then alerts are popped-up and the Unit has to provide satisfactory replies to CPCB for the said violation.

As an illustration, the Answering Respondent is annexing herewith screenshot of the Online Monitoring System and the Multistation Report which evidences that the emissions from the unit are within permissible limits as ANNEXURE- R5/ 19."

10. Respondent No.5 has further submitted that respondent no. 5 has instituted a robust Corporate Social Responsibility ("CSR") programme for social development to aid and assist the residents of the surrounding villages in the best possible way. Respondent No.5 has submitted that all the concerns of the Applicant as well as the Joint Committee and this Tribunal stand addressed.

11. Vide order dated 23.01.2023, Ms. Jesal Wahi, Advocate was appointed as *Amicus Curiae* to assist this Tribunal in just and fair adjudication of the questions involved in the case.

12. Respondent no. 5-UTCL filed W.P. (C) 5809/2023 and CM Appeal 22747/2023 titled as Ultratech Cement Limited Vs. Union of India & Ors. before the Hon'ble High Court of Delhi. Copy of order dated 09.05.2023 passed by Hon'ble High Court of Delhi has been produced by respondent no. 5-UTCL with its reply. The relevant part of order reads as under:-

"1. This hearing has been done through hybrid mode.

*2. The Petitioner-Ultratech Cement Ltd. has filed the present petition challenging the impugned orders passed by the National Green Tribunal (hereinafter, NGT) dated 29th September, 2022, 24th April, 2023 and 23rd January, 2023 in **OA No. 617 of 2022 titled Pushpender v. State of Uttar Pradesh and Ors .***

*3. The Petitioner has various grievances, **firstly**, that the complaint made by Respondent No. 6-Pushpender before the NGT vide letter dated 23rd May 2022 contained very general allegations against the Petitioner. The said complaint is as follows:*

Respected Sir,

I am Pushpendra Singh, Address Village Berai, Post Bevra, Shankargarh Police Station, Shankargarh Tehsil Bara, District Prayagraj, Uttar Pradesh.

Sir, there is Tata and Ultratech Cement company in our village. This company is spreading pollution in the entire village. Our village is just adjacent to the boundary of the company.

The company stores cement ash inside its boundary through trucks, which is causing air pollution in the entire village. And the dirty water of the company flows from the village itself, due to which water pollution is also happening. So, the water of the village is no longer fit or fit for drinking.

Therefore, respected sir I requested to take appropriate action against these companies and save the people of the village from pollution.

However, despite the said allegations being extremely general in nature, vide order dated 29th September, 2022, a prima facie finding was given by the NGT without hearing the Petitioners.

*4. Mr. Mishra, ld. Sr. counsel appearing for the Petitioner relies upon the judgment of the Supreme Court in **Municipal Corporation of Greater Mumbai v. Ankita Sinha [2021 SCC Online SC 897]** to argue that NGT can receive communications and letters, and can even take suo moto*

cognizance of the matters published in the media, however, notice would have to be issued to the sender of the communication or author of the news item, and also give a notice to the person likely to be affected.

5. It is further submitted on behalf of the Petitioner that in this case prior to arriving at a prima facie finding, no notice was issued to the Petitioner and a Joint Committee was appointed by the NGT vide order dated 29th September 2022 to verify the factual position. The said Joint Committee filed a report before the NGT dated 17th January, 2023. As per the said report, it is stated that the Committee found no major violations by the Petitioner and only certain recommendations were made in the said report. The said report of the Joint Committee was taken on record by the NGT vide order dated 23rd January 2023.

6. Thereafter, vide order dated 23rd January, 2023 and 24th April, 2023 an Advocate was appointed by the NGT as an Amicus Curiae to make multiple visit of petitioner's premises of the fee of the said Commissioner is to be borne by the Respondent No. 4-Uttar Pradesh Pollution Control Board (hereinafter, UPPCB). Further, vide order dated 24th April 2023, it is stated that the NGT wrongly recorded that the Joint Committee has referred to environmental violations and has proceeded to make recommendations on that basis. Further, the Petitioner states the NGT also noted that remedial measures have not been taken by the Petitioner, which is contrary to record. The submission is that the NGT is not following the proper procedure which is required to be followed.

7. On behalf of the UPPCB, it is submitted by Mr. Arvind Kumar, Id. Counsel, that the report of the Joint Committee found violations on behalf of the Petitioner. However, insofar as the appoint of the Amicus Curiae, and the fee being borne by the UPPCB is concerned, it is submitted that the UPPCB would not be having proper head of funds to pay the Amicus Curiae and that the said Commissioner may not have the expertise in this matter. Thus, the UPPCB also objects to the appointment of the Advocate-Commissioner.

8. On behalf of the Respondent No. 2-Central Pollution Control Board (hereinafter, CPCB), Mr. Shekar, Id. Counsel submits that the orders of the NGT are appealable before the Supreme Court under Section 22 of the NGT Act, 2010 and consequently the present writ is not maintainable.

9. This Court has considered the matter. There is a similar matter being **W.P.(C) 13212/2022 titled Radico Khaitan v. Union of India** wherein certain orders have already been passed.

10. Firstly, this Court notices that in the judgment of the Supreme Court in **Ankita Sinha (supra)** clearly, the principles of natural justice would have to be followed by the NGT. In fact, whenever a communication, letter etc., or even a suo moto action is sought to be taken, the issuance of a notice to the party who is likely to be effect would be mandatory. In this respect, the Supreme Court has held as follows:

“105. When the Registry of the NGT does indeed receive a communication or letter, including matters published in media, it may cause to initiate suo motu action by inviting attention of NGT to such matters in

the form of office report. Such circumstances would however require a notice to be given to the sender of the communication or author of the news item, as the case may be, to assist the NGT in the course of hearing and to substantiate the factual matters. It must also be said that the exercise of suo motu jurisdiction does not mean eschewing with the principles of natural justice and fair play. In other words, the party likely to be affected should be afforded due opportunity to present their side, before suffering adverse orders.”

Clearly, in the present case, while passing the order dated 29th September, 2022 and arriving at a prima facie finding based on a one page complaint, the Petitioner was not heard.”

11. **Secondly**, the Court has also considered the order dated 24th April 2023 of the NGT insofar as it relates to appointment of the Amicus Curiae. The said portion of the order dated is set out below:

“4. Vide order dated 23.01.2023, Ms. Jesal Wahi, Advocate was appointed as amicus curiae to assist this Tribunal in just and fair adjudication of the questions involved in the case. Learned amicus curiae may undertake such visits to the industries in question as considered necessary and respondents no. 4 and 5 are directed to allow the amicus curiae to make such visits. Learned amicus curiae may also submit report/suggestions regarding the questions relating to environment involved in the case within two weeks by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF. The UPPCB is directed to pay an amount of Rs. 50,000/- to the learned amicus curie besides expenses incurred on transportation (including economy class Air fare), Boarding/Lodging and other related/incidental charges.”

12. While there can be no doubt that the NGT is duly empowered to appoint the Amicus Curiae, if the need so arises, clearly the same would have to be made after hearing all the parties concerned including the UPPCB inasmuch as the Advocate Amicus Curiae also ought to be having the requisite expertise in the matter.

13. In order to have a proper prescribed procedure in the manner in which NGT ought to proceed in such matters, let a short note be placed on record by the Petitioners, CPCB, UPPCB and the Respondent No. 1-MoEF within four weeks.

14. In the meantime, let the proceedings before the NGT shall continue. Since the report by Joint Committee has been submitted before the NGT, let the Petitioner place on record in the NGT, a detailed action plan dealing with any deficiencies which may have been pointed out in the said report and the manner in which it intends to address the said deficiencies.

15. The CBCP s report or the UPPCB s report in this regard would also be taken into consideration by the NGT. Further, deal with the deficiencies pointed out by the Joint Committee, if

any, shall also be considered by the NGT before it may pass appropriate orders in accordance with law.

16. If any officer of the Petitioner wishes to appear before the NGT as permitted by the NGT, they may appear virtually or physically as advised.

17. The proceedings before the NGT shall, accordingly, be continued in the above terms.

18. List on 10th November, 2023.”

13. However, the Hon'ble High Court of Delhi dismissed W.P.(C) 5809/2023 and CM APPL. 22747/2023 titled as Ultratech Cement Limited vs. Union of India & Ors. as withdrawn vide order dated 23.11.2023 which reads as under:-

“1. The learned counsel for the petitioner submits that the learned National Green Tribunal has already heard the submissions of the petitioner and orders have been reserved.

2. In view thereof, and without prejudice to the rights and contentions of the petitioner, she prays for leave to withdraw the present petition.

3. The present petition along with the pending application is disposed of as withdrawn, leaving the questions raised in the present petition open to be adjudicated in an appropriate proceeding, and without prejudice to the rights and contentions of the petitioner.”

14. Vide order dated 24.04.2023 this Tribunal directed respondent no. 4-PPGCL and respondent no. 3-District Magistrate, Prayagraj to take requisite action for making RO functional by carrying out all requisite measures. Respondent no. 4-M/s. PPGCL filed affidavit dated 02.05.2023 that in compliance with the directions passed by this Tribunal vide its order dated 24.04.2023, the RO plant in question was made fully functional/operational on 28.04.2023 and letter dated 29.04.2023 was sent to UPPCB in this regard.

15. Vide order dated 24.04.2023 this Tribunal directed both the Project Proponents to file additional replies giving in detail in tabular form the compliance status with respect to EC/CTE/CTO consent conditions and also the activities carried out by them in discharge of their corporate social responsibility with relevant documents and also

directed respondent no. 2-UPPCB to take appropriate remedial action in view of the recommendations made in its report by the Joint Committee and file Action Taken Report.

16. In compliance thereof respondent no. 4-M/s. PPGCL filed additional reply dated 09.05.2023 vide email dated 09.05.2023 and respondent no. 5-UTCL filed additional reply dated 15.05.2023 vide email dated 15.05.2023 and Respondent No.2-UPPCB filed report dated 10.05.2023 vide email dated 12.05.2023.

17. This Tribunal considered replies/reports filed to be vague and evasive and directed the Project Proponents to file replies regarding compliance with EC/CTE/CTO consent conditions imposed on them and remedial measures taken by them in accordance with observations/recommendations made by the Joint Committee with all requisite details regarding all relevant aspects including plantation, CSR activities and remedial measures taken for abatement of air and water pollution and respondents no. 2 and 3 were directed to verify the status regarding such compliance by respondents no. 4 and 5.

18. In compliance thereof respondent no. 4-M/s. PPGCL filed additional reply dated 26.07.2023 vide email dated 31.07.2023 and respondent no. 5-UTCL filed additional reply dated 11.08.2023 vide email dated 16.08.2023 and respondent no. 2-UPPCB filed report dated 14.08.2023 vide email dated 14.08.2023.

19. Arguments were heard and Judgment was reserved vide order dated 18.10.2023, but on going through the material on record it was found that some material aspects of the case were not adverted to/referred to at the time of arguments and the matter required further

hearing for due elucidation/consideration of the same and the matter was relisted for further hearing.

20. After relisting of the case for further hearing additional affidavit has been filed by respondent no. 4-M/s. PPGCL vide email dated 08.11.2023. The relevant part of the additional affidavit filed by respondent no. 4-M/s. PPGCL is reproduced below:-

“2. That I furnish the following information, as sought by this Hon'ble Tribunal in the course of the hearing 18.10.2023:-
(a) What was the total cost reserved towards the Corporate Social Responsibility ("CSR") fund of PPGCL?
(a1) I submit that the total cost reserved towards the CSR fund of PPGCL amounts to Rs. 6 crores.
(b) How much money has PPGCL spent to meet its CSR obligations?
(b1) I submit that during the Financial Year 2022-2023 ("FY 22-23"), PPGCL has spent around Rs. 600.17 lakhs i.e., Rs. 6.0017 crores, in order to meet its CSR obligations. Furthermore, a detailed breakup of the same is provided hereinbelow, in a tabular form:-

CSR Expenditure incurred by PPGCL in FY 22-23		
S. No.	Thrust Area/Programs	Amount gulch)
1	Education	141.04
2	Health and Sanitation	143.85
3	Skilling for Livelihood	78.3
4	Social and Financial Inclusion	236.98
Total		600.17

(c) In how many villages has PPGCL installed the RO plant in compliance of its CSR obligations and how many RO plants have been installed by PPGCL?
(cl) I say that PPGCL has installed a total of seven RO Plants with a capacity of 500 KLD in five villages i.e., one in Bemra, one in Berui, one in Khansemra, two in Jorwat and two in Kapari.
(d) What is the cost of the RO plants installed by PPGCL in the villages?
(d1) I say that PPGCL has incurred a total amount of Rs. 38.50 lakhs for installing the RO plants in the respective villages.
(e)How many numbers of villagers/ locals are the RO plants (installed by PPGCL) catering to?
(e1) I say that through the seven RO plants installed by PPGCL in five villages, a to a total of 6000 people are being catered to.

(f) What other activities have been done by PPGCL under its CSR obligations other than installing the RO plants and what other aids have been provided by PPGCL under its CSR obligations?

(f1) I say that PPGCL has undertaken the following activities, which are in compliance of its CSR obligations: -

(a) Under Education program - PPGCL is providing financial and infrastructure support to DAV Sardar Patel Public School. 50% subsidy in fee is being given to community students.

(b) Health center has been established.

(c) 110 solar streetlights have been installed in five villages.

(d) 25 Nos of Handpumps have been installed.

(e) 450 youths have been trained on solar panel installation, LED repairing, Handset repairing through NSDC.

(f) 24 SHGs have been formed consisting of 244 women. Skill building training on soft toys making, artificial jewelry, Rakhi making, Toran making, Handicraft work and stitching work is being provided. Also, market linkage has been done through NGO SAVE to sell the product.

(g) 200 youths are undergoing skill training on Data entry operator, Retail and Office assistance through NSDC.

(g) What all plants/trees/saplings have been planted by PPGCL in its plant, how many plants/trees/saplings have been planted by PPGCL in its premises, how many sapling/trees/plants have survived?

(g1) I say that PPGCL has planted approximately 3.49 lakh plants in the vicinity and the species planted are as follows: -

(a) Neem,

(b) Seesham,

(c) Karanj,

(d) Pipal,

(e) Bargad,

(f) Kadam,

(g) Alstonia,

(h) Gulmohar,

(i) Bamboo,

(j) Mahua,

(k) Siris,

Saagwaan,

(m) Ashoka,

(n) Imli,

(o) Amla,

(p) Mango,

(q) Guava and

(r) Jamun

(h) How big is the greenbelt area developed by PPGCL?

I submit that PPGCL has developed a green belt area in an area of approximately 400 acres.

(i) Does PPGCL contemplate to invest more on health services, for example, mobile health dispensary, construction of water reservoir with the assistance of the local government authority/state government?

(i1) I submit that PPGCL has established a health center with facility of OPD, Specialist consultant, ECG, Xray, Pathology and pharmacy. Also, it has donated a Health ATM to CHC

Shankargarh. PPGCL has also constructed a check dam in Jorvat village.

3. In view thereof, I state that PPGCL is filing the present affidavit in furtherance of the order dated 18.10.2023, passed by this Hon'ble Tribunal.

4. That the facts stated above in the above affidavit are true and correct to the best of my knowledge. No part of the same is false and nothing material has been concealed therefrom."

21. In the present case this Tribunal took cognizance on the basis of letter petition sent by the applicant by email on public grievance portal of this Tribunal. On non-appearance of the applicant, vide order dated 14.03.2024 and 04.04.2024 the applicant was ordered to be informed about the date of hearing fixed in the case and VC link was ordered to be sent to him to enable him to join the proceedings on the date of hearing fixed. However, the applicant did not appear before this Tribunal in person or through any recognized agent or counsel.

22. Respondents no. 1 and 3 did not appear before this Tribunal initially and even after relisting of the case for further hearing.

23. We have heard submissions made by Mr. Arvind Kumar, learned Counsel for respondent no. 2-UPPCB (through VC), Mr. Shri Venkatesh, Mr. Anant Singh Ubeja and Mr. Kunal Veer Chopra, learned Counsel for Respondent No. 4- PPGCL (through VC) and Ms. Vanita Bhargawa, learned Counsel and Ms. Nandita Chauhan, learned Proxy Counsel for Respondent No. 5 (through VC) and gone through the relevant record carefully.

24. Learned Counsel for respondents no. 4-PPGCL and 5-UTCL have reiterated submissions made in their replies and compliance reports and argued that respondents no. 4-PPGCL and 5-UTCL are not causing any water and air pollution and are complying with EC and consent conditions in all respects including effluent discharged, fly ash disposal,

raising of green belt and CSR activities and the original application may be dismissed.

25. Respondent no. 4-M/s PPGCL has established 3x660 MW capacity coal fired supercritical thermal power plant at tehsil Bara of Prayagraj district in the state of Uttar Pradesh (India). The plant is situated on NH-76 at about 40 Kms from Prayagraj (Allahabad) city in south west direction. The nearest railway station Bevara (Allahabad- Manikpur Section of NCR) is approx. 3 km from site. All the three units 1, 2 and 3 have achieved COD (Commercial Operation Date) on 20.02.2016, 10.09.2017 and 26.05.2017 respectively. The consent issued under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control Of Pollution) Act, 1974 is valid up to 31.12.2025 and authorization for Handling of Hazardous Waste under Hazardous Waste (Management, handling and Transboundary movement) Rules, 2016 is valid upto 04.10.2026.

26. Respondent No.5 is operating a grinding unit with the capacity of 4 MTPA for manufacturing of Portland Pozzolona Cement. The said Grinding Unit was earlier being operated by PPGCL to productively utilize fly ash from the thermal power plant, under a valid EC dated 28.11.2014. The said Grinding Unit was acquired by UTCL under a scheme of arrangement duly approved in 2017. However, the implementation and physical acquisition of the said grinding unit took place in 2020. Thereafter, CTE/CTO were transferred to UTCL.

27. Respondent No.5 has been issued Consolidated Consent to Operate and Authorisation under Section 25 of the Water (Prevention and Control

of Pollution) Act, 1974 and under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 which are valid upto 31.12.2027.

28. The applicant has complained about causing of Water and Air Pollution in village Berui by respondent no. 4-PPGCL and respondent no. 5-UTCL. In its report the Joint Committee mentioned that during the visit the Air and Water pollution level has been assessed for pollution sensitive parameter as per complaint made by applicant. The pollution level during the visit in general was not found alarming level barring few parameters such as an Ambient Air (PM10), Drains (BOD and Nitrate) and in Ground water (pH, Calcium Sulphate) were found marginally higher than the prescribed norms (PM10— 6.33 %, BOD- 46%, Nitrate- 14 %, Calcium- 12% and Sulphate- 25%). These observations have been relied upon by the respondents No.4 and 5 to amount to findings of facts that respondents No.4 and 5 are not causing any water and air pollution but we find it difficult to accept these submissions and are of the considered view that the Joint Committee failed to consider the matter in the context of fundamental right to pollution free environment and sustainable development ensuring protection of environment and failed to make requisite enquiries and suggest appropriate remedial measures as higher parameters were indicative of environmental pollution, even though of lesser degree, which needed appropriate remediation.

29. In view of the averments made in the application and submissions made in the replies and attendant facts and circumstances of the case the following questions arise in the present case:-

- (i) Whether respondent no. 4-PPGCL and respondent no. 5-UTCL are causing any water pollution as alleged by the applicant and, if the

answer be in affirmative, what remedial measures are required to be taken?

- (ii) Whether respondent no. 4-PPGCL and respondent no. 5-UTCL are causing any air pollution as alleged, by the applicant and, if the answer be in affirmative, what remedial measures are required to be taken?

Whether respondent no. 4-PPGCL and respondent no. 5-UTCL are causing any water pollution as alleged by the applicant and, if the answer be in affirmative, what remedial measures are required to be taken?

30. Respondent no. 4-PPGCL and respondent no. 5- UTCL were granted EC by MoEF & CC and consent under the Water Act and Air Act by UPPCB whereby conditions were imposed for compliance with environmental laws/norms. In compliance with orders passed by this Tribunal replies were filed by respondent no.4-PPGCL and respondent no.5-UTCL and copies of compliance reports regarding compliance with EC conditions and CTE/CTO conditions were filed with the same claiming compliance with EC/Consent conditions and brief reference to the same is essential for adjudication of the question of causing of water pollution by respondent no.4-PPGCL and respondent no.5-UTCL.

31. A perusal of replies and compliance reports filed by respondent no. 4-PPGCL shows that conditions were imposed on respondent no.4-PPGCL that no ground water shall be extracted for the Project work at any stage. Closed cycle cooling system with natural draft cooling tower shall be treated as per the prescribed norms. COC of 5 shall be adopted. The treated effluents confirming to the prescribed standards only shall be re-circulated and reused within the plant. There shall be no discharge outside the plant boundary except during monsoon. Arrangements shall

be made that effluents and storm water do not get mixed. A sewage treatment plant shall be provided and the treated sewage shall be used for raising green belt plantation.

32. In its replies respondent no. 4-PPGCL has mentioned that water is being taken from Yamuna River through pipeline. Effluent is being treated. Treated effluent is reused within the plant. Treated sewage is used for raising green belt/plantation.

33. A perusal of replies and compliance reports filed by respondent no.5-UTCL shows that conditions were imposed on respondent no. 5-UTCL that the plant shall operate on zero discharge basis. Rain water harvesting shall be adopted and the extent of requirement of water for the project from mines would be reduced. Industrial waste water shall be properly collected, treated so as to conform to the standards prescribed under GSR 422 (E) dated 19.05.1993 and 31.12.1993 or as amended from time to time. The treated waste water shall be utilized for plantation purpose.

34. In its reply/compliance reports Respondent no. 5-UTCL has mentioned that no waste water is being generated from the cement manufacturing, as the cement manufacturing is based on dry process technology and it is maintaining zero discharge. Only very less quantity of domestic waste water is generated from the office toilets which is being disposed of in soak pit. Water is being used for cooling purpose which is recycled back through cooling tower. It has implemented the rain water harvesting plan within the plant premises and regular desilting operation is carried out during pre-monsoon season.

35. The Joint Committee constituted by this Tribunal vide order dated 29.09.2022 collected three (03) surface water samples for the evaluation of pollution impact on surface water near the Berui village: -

- “1) Seasonal Natural Drain (SND) before the storm water drain coming from plant (M/s PPGCL and M/s Ultratech Cement) at near Railway Bridge culverts (Latitude: 25.18359, Longitude: 81.638956). (Picture-5)
- 2) Strom water drain coming jointly form M/ s PPGCL and M/s Ultratech Cement limited (Latitude: 25.180655, Longitude: 81.640677). (Picture-6). The storm water drain sample was also analyse for heavy metal contents such as Co, Cr, Cu, Fe, Mn, Pb and Zn. Except **iron content that was 1.38 mg/L and Zn content was 0.36 mg/L** the concentration of all other heavy metal was found below detectible limit.
- 3) Seasonal Natural Drain (SND) after meeting the storm water drain coming from plant (M/s PPGCL and M/s Ultratech Cement area) downstream (Latitude: 25.180400, Longitude: 81.640909).(Picture-9)

Table 1: Analysis report of sample collected from surface water source

S. No.	Parameter	Sampling Location			General Discharge standard
		Upstream of Seasonal Natural Drain	Storm Drain coming from Industry	Downstream of Seasonal Natural Drain	
1	pH	7.53	7.82	7.89	5.5-9.0
2	Temperature (°C)	20	21	20	Shall not exceed 5°C above the receiving water temperature
3	Colour (Hazen)	05	10	10	--
4	Suspended Solid (mg/L)	< 2.5	6.48	2.81	100
5	TDS (mg/L)	1918	2018	1852	--
5	Chloride as CI (mg/L)	416	239	365	—
6	Sulphate as SO4 (mg/L)	888	619	745	-
7	Phosphate (mg/L)	< 1.5	< 1.5	<1.5	5.0
8	Nitrate (mg/L)	< 2.2	11.4	12.4	10

9	Ammonical Nitrogen (mg/L)	< 0.5	< 0.5	< 0.5	50
10	COD (mg/L)	88.3	110	64.8	<u>250</u>
11	BOD (mg/L)	26.2	44	9.90	30

36. Report of the Joint Committee shows discharge from respondent no.4-PPGCL and respondent no. 5-UTCL in the storm water drain coming jointly from respondent no.4-PPGCL and respondent no. 5-UTCL. In view of the EC/consent conditions there cannot be any discharge from respondent no.4-PPGCL and respondent no. 5-UTCL in the Storm water drain except during monsoon. The Joint Committee has recommended that the storm water drain should be used as storm water drain not for discharging the waste water. Wastewater generated by different activities should be diverted to ETP for treatment.

37. Since respondent no.4-PPGCL and respondent no. 5-UTCL are zero liquid discharge units, respondent no.4-PPGCL and respondent no. 5-UTCL are directed to ensure that treated industrial effluent and domestic sewage are used for industrial purposes/horticulture /plantation and are not discharged in storm water drain except during monsoon.

38. A perusal of replies and compliance reports filed by respondent no. 4-PPGCL and respondent no.5-UTCL show that conditions were imposed on them regarding monitoring of ground water and respondent no.4-PPGCL and respondent no.5-UTCL have filed copies of test reports to show compliance regarding such ground water monitoring.

39. The Joint Committee constituted by this Tribunal collected the ground water samples to ascertain the Impact of pollution on ground water quality from following locations:-

“4.Sh. Puspendra Singh Yadav house (Latitude: 25.188201, Longitude: 81.647860),(Picture-9)

5. Shiv Shankar Yadav house (Latitude: 25.188603, Longitude: 81.647275) (Picture-10) and

6. Primary School (Latitude: 25.189316, Longitude: 81.647704) (Picture-11) for the purpose to know the actual drinking water quality of village.

Table 2 in the report of the Joint Committee which shows Analysis report of sample collected from Ground water at village Berui is reproduced as under:

S. No.	Parameter	Sampling Location			IS10500:2012 (Drinking water - specification) (Acceptable/ Permissible limit)
		Applicant House	Shiv Shankar Yadav House	Primary School, Berul Village	
1	pH	6.33	6.65	6.73	6.5-8.5
2	Temperature (°C)	2.3	2.3	2.3	--
3	Conductivity (us/cm)	1602	2483	1178	--
4	TDS (mg/L)	1069	1670	762	500/2000
5	Total Hardness (mg/L)	394	736	371	200/600
6	Calcium as Ca ²⁺ (mg/L)	120	224	61	75/200
7	Magnesium as Mg ²⁺ (mg/L)	23	43	37	30/100
8	Sodium (mg/L)	173	201	92	--
9	Potassium (mg/L)	20	84,4	1.48	--
10	Chloride as Cl' (mg/L)	180	328	112	250/1000
11	Fluoride as F- (mg/L)	< 0.5	< 0.5	0.604	1/1.5
12	Sulphate as SO ₄ ²⁻ (mg/L)	299	502	173	200/400

13	Phosphate (mg/L)	< 0.06	< 0.06	< 0.06	--
14	Nitrate (mg/L)	< 2.2	8.57	12.5	45
15	Alkalinity (mg/L)	226	218	296	200/600
16	COD (mg/L)	13.1	6.1	6.0	—

40. The grievance of the applicant is that ground water has become unfit for drinking. The Joint Committee did not give any opinion as to whether ground water was fit for drinking. The Joint Committee also did not look into the causes of contamination of ground water and did not suggest any remedial measures.

41. Respondent no.2-UPPCB is directed to undertake requisite study through subject experts to examine quality and fitness of ground water for use as drinking water, ascertain the causes of contamination of ground water, recommend remedial measures required to be taken and issue directions to the concerned Authorities and the Project Proponents, as the case may be, to take the same and submit Action Taken and compliance report.

Whether respondent no. 4-PPGCL and respondent no. 5-UTCL are causing any air pollution as alleged by the applicant and, if the answer be in affirmative, what remedial measures are required to be taken?

42. The Joint Committee constituted by this Tribunal observed in its report that due to village Berui being situated adjacent to boundary wall of PPGCL and UTCL, the possibility of adverse impact of the Air pollution issue during summer or dry weather condition when the wind direction would be towards the village will appear, as the activities (such as handling of gypsum or other raw material, movement of heavy vehicle,

constructions, handling of fly ash/bottom ash, coal handling etc.) which have got high potential of Air pollution are being carried out by the both the project proponents.

43. In its report the Joint Committee has mentioned that both the proponents have installed the air pollution control devices at desired locations and process. Details of the Air Pollution Control Devices have been given in Annexure II and III.

44. The Joint Committee has recommended qua Respondent No.5-UTCL that Gypsum yard requires to be covered and all the transfer points on the conveyor belts or hoppers to be equipped with the air pollution control devices; fugitive emission from construction activities being carried out within the plant area require to be accomplished using appropriate protocol; movement of the vehicle should be followed by the dust separation system within the plant and UTCL must ensure the deployment of Dust Separation System and Dust Extraction system appropriately covering all the transfer and handling points within the plant to avoid any kind of fugitive emissions. The Joint Committee recommended qua PPGCL that ash handling plant/ ash dyke be appropriately managed to reduce the Air pollution; dust Separation System and Dust Extraction System be deployed appropriate within the plant (particularly ash handling, coal handling plant) and road conditions, vehicle etc. be maintained to reduce the line source of air pollution in and around the unit.

45. In their replies PPGCL and UTCL have made detailed submissions about the air pollution control devices, the Dust Separation System and Dust Extraction system installed by them and compliance made in this

regard which have been reproduced/referred to above and need not be repeated/reproduced here.

46. In view of the submissions made in the replies and the attendant facts and circumstances, the recommendations of the Joint Committee appear to suffer from contradiction/ambiguity which ought to have been avoided by mentioning in requisite details as to what were the deficiencies noticed specifically identifying and mentioning the points where the pollution control devices, Dust Separation System and Dust Extraction system were required to be installed and what other specific remedial measures were required to be taken.

47. In view of recommendations, we consider it appropriate to direct UPPCB to look into the aspect of requirement of installation of Dust Separation System and Dust Extraction system at additional points at the time of next inspection of PPGCL and UTCL and issue appropriate direction in this regard.

48. The Joint Committee has performed the ambient air monitoring at Berui village to ascertain the pollution level in referenced area as mentioned hereunder: -

“1) Respirable Dust Sampler (RDS) installed for monitoring of SO₂, NO₂ and Particulate Matter (PM₁₀) pollutants at Berui village on the terrace of residence of complainant Sh. Puspendra Singh Yadav (Latitude: 25.188201, Longitude: 81.647860).

2) Ambient air quality being monitored by the M/s PPGCL (installed at three locations, 1- Horticulture area (CAAQMS 1) , 2- ITI college(CAAQMS 2), 3-Coal Handling Plant (CHP) area (CAAQMS 3)) and M/s Ultratech Cement Limited (installed at two locations, 1- Near Gypsum storage area (CAAQMS 4), 2- Main Gate of Industry (CAAQMS 5)), Bara adjacent to Berui village using Continuous Ambient Air Quality Monitoring Station (CAAQMS), have also been considered for the evaluation of the ambient air quality to assess the impact of the industrial activities.

Table 3: Ambient air quality at different locations:-

S. No,	Location		Parameter		
			SO ₂ (ug/m ³)	NO ₂ (ug/m ³)	PM ₁₀ (ug/m ³)
1	Applicant House(AAQMS)		6.00	17.84	106.33
2	M/s. PPGCL	CAAQMS 1	< 6.0	25.2	88.4
3		CAAQMS 2	7.0	32.3	90.2
4		CAAQMS 3	7.2	37.1	97.2
5	M/s Ultratech	CAAQMS 4	--	-	86.65
6	Cement Limited	CAAQMS 5	--	-	51.25
National Ambient Air Quality Standards			80	80	100

”

49. The Joint Committee did not look into the cause as to why PM10 (ug/m3) was 106.33 in front of the house of the applicant when the same was much lower at other locations.

50. We direct UPPCB to perform the ambient air monitoring at Berui village to ascertain the pollution level in referenced area and look into the cause if PM10 (ug/m3) in front of the house of the applicant is higher than PM10 (ug/m3) at other locations and suggest remedial measures.

Management and Disposal of Fly Ash

51. In its reply respondent No.4 -PPGCL has submitted that PPGCL is managing and disposing of fly ash in light of the prescribed norms and directives issued by MoEF & CC vide its Notifications in 1999, 2009, and 2021 and achieved hundred percent (100%) utilization of Fly Ash. PPGCL has issued a circular titled “Ash Utilisation Policy” dated 01.04.2022 (“PPGCL Policy”) which PPGCL has been unequivocally endorsing while undertaking any project activity.

52. In its reply respondent No.4 -PPGCL has also submitted that to ensure that the conveyance / transportation/ disposal of Fly Ash does not cause any air/ water pollution in the vicinity of the plant in any

manner whatsoever in this regard, PPGCL has taking the following steps:-

“(a) Primarily, PPGCL is utilising the Fly Ash for the purposes of cement and brick manufacturing which is undertaken by other cement and brick manufacturing companies.

(b) The ash handling plant established by PPGCL is collecting Fly Ash from the ESP Hoppers and is conveyed to Silos has taken following steps:- through pipe conveying system.

(c) Bottom Ash, which is discharged from the plant is also conveyed to the ash pond in the form of slurry, because of which ash lying in the ash pond has moisture content and does not become air borne. Further, the ash collected in the pond are being utilised in road construction and reclamation of low lying areas.

(d) During dry season, PPGCL has made additional arrangements to ensure that water flows in the ash pond through the slurry discharge line so that the area remains moist.

(e) PPGCL also ensures that transportation of Fly Ash to Respondent No. 5 is carried out in a controlled and cautious manner. Further, for the purpose of carrying out the said purpose, PPGCL has long term tie ups with Respondent No. 5 and other cement manufacturing companies/traders which utilise Fly Ash.

(f) Moreover, PPGCL also undertake the safe disposal of Fly Ash by conveying the same through railway wagons and is being utilised for the purposes of road construction.

(g) PPGCL has installed an effluent treatment plant to treat the process waste water. The waste water generated from process is collected, treated in effluent treatment plant and is reused back in the process. Hence, PPGCL ensures two things, firstly that waste water is not freely discharged, rather it is treated and reused; secondly, the consumption of fresh water is reduced in the process.

(h) PPGCL has also established a brick unit which has been handed over to NGO for the purposes of manufacturing of brick and paver block, through utilisation of Fly Ash.”

53. This Tribunal considered the disposal of fly ash in low lying areas as an unscientific mechanism and passed directions for proper disposal of the fly ash. In the matter of **O.A. No. 744/2022 with OA No. 277/2021 Moharram Ali Vs State of UP and Liyakat Ali Vs State of U.P.** This Tribunal Observed as under:-:

“7. It is established that plastic waste and fly ash are being unscientifically stored and disposed of in violation of Rules and to the detriment of environment. Such storage and use of landfill through contractor is not legally permissible. Stand that waste is being used for cement plants does not appear to be factually correct as no name of cement plant has been given and needs to be verified by manifest system. Compensation determined does not take into account financial capacity of the units to determine the deterrent element nor the value of the extent of damage and the cost of restoration”

54. This Tribunal has observed in number of cases that the project proponents enter into agreements with the third parties for disposal of fly-ash which are reporting compliance by submitting that the fly-ash is being disposed of in low lying areas. Since fly-ash generated by coal based industries contains harmful heavy metals, it is appropriate that the same is not utilized for filling of any agricultural areas and is utilized by cement or brick making industry. These aspects have to be looked into and the monitoring mechanism needs to be evolved to ensure proper disposal of fly-ash. This Tribunal vide order dated 06.10.2023 passed in **O.A. No.369/2022 titled as Sachin Tomar Vs. State of U.P. & Ors.** observed that these aspects have to be looked into and the monitoring mechanism needs to be evolved to ensure proper disposal of fly-ash and accordingly directed the Member Secretary, UPPCB to file an affidavit mentioning the mechanism evolved for verifying the development of green belts and disposal of fly-ash by the project proponents in accordance with the EC/consent conditions. In compliance thereof affidavit dated 15.01.2024 of Mr. Sanjeev Kumar Singh, Member Secretary UPPCB was been filed by Chief Environmental Officer, Circle-3, UPPCB vide email dated 16.01.2024. The draft mechanism for proper utilization of fly ash generated by coal based industry was enclosed with the affidavit as Annexure-II. In the above mentioned case this Tribunal vide order dated 18.01.2024 directed UPSPCB to finalize the same and in compliance

thereof the guidelines laying down the mechanism for proper utilization of fly ash have been finalized by UPSPCB.

55. Respondent no. 4-PPGCL is directed to ensure management and disposal of fly ash in accordance with notification issued by MoEF & CC and guidelines issued by UPSPCB.

Green Belt/Plantation

56. A perusal of replies and compliance reports filed by respondent no. 4-PPGCL shows that EC condition was imposed on respondent no.4-PPGCL that a green belt of adequate width and density shall be developed around the plant periphery covering 1/3rd of total area preferably with local species and consent condition was imposed that respondent no. 4-PPGCL shall develop and maintain green belt as per the guidelines issued by UPPCB vide office order dated 16.02.2018.

57. In its report the Joint Committee did not mention as to whether respondent no. 4-PPGCL has developed green belt/raised plantation on 1/3rd of total area as per the guidelines issued by UPPCB vide office order dated 16.02.2018 and merely observed that still there is scope of the enhancement of green belt near the boundary wall of village and recommended increase of the width of the green belt aligned to their boundary wall by respondent No. 4-PPGCL.

58. In its reply respondent No. 4-PPGCL has submitted that PPGCL has until September 2022 already planted and maintained 3,34,060 saplings for the purposes of the development of the green belt and approximately 20,520 saplings were also planted during the monsoon season in FY 2022-2023. Out of the 3,34,060 saplings planted in the month of September 2022, 90% of the saplings have survived as on date.

Among other flowering and ornamental saplings, the following are the species planted in the area by PPGCL:-

- (a) Neem,
- (b) Seesham,
- (c) Karanj,
- (d) Siris,
- (e) Pipal,
- (f) Bargad,
- (g) Bamboo,
- (h) Arjun,
- (i) Kadam,
- (j) Gulmohar,
- (k) Alstonia,
- (l) Imli,
- (m) Amla,
- (n) Mango,
- (o) Ashoka,
- (p) Guava and
- (q) Bel.

Respondent no. 4-PPGCL has further submitted that one of the primary objectives of PPGCL during the upcoming monsoon season is to plant more saplings so as to increase the green plantation in and around its boundaries to improve the environment and ambient air quality.

59. A perusal of replies and compliance reports filed by respondent no. 5-UTCL shows that EC conditions were imposed on respondent no. 5-UTCL that a green belt of 50 to 100 meter width shall be provided all along the boundary of the plant. 3 to 4 layer of local trees shall be planted in the green belt and that green belt (3-tier) of approximately 15-20m width shall be developed in vacant areas, transfer points covering a total area of 33% of total plant area. Tree plantation shall be in downwind based on the prevalent wind direction at site. Consent condition was imposed that the Industry shall develop and maintain

green belt as per the guidelines issued by the Board vide office order dated 16.02.2018.

60. Respondent no.5-UTCL has admitted in its reply that respondent No.5 is required to maintain green belt/plantation covering a total area of 6.6 hectares being 33% of the total plant area of 20 hectares.

61. In its report the Joint Committee did not mention about the area of green belt/plantation and nature of species planted and merely observed that respondent no.5-UTCL has not given adequate attention on plantation and their survivals in and around the plant and recommended that appropriate green belt (using different height of indigenous plant species capable of arresting air pollutants) is required to be developed to prevent air pollution in the surrounding habitation.

62. In its reply respondent no. 5-UTCL has submitted that it has taken over the said Cement Grinding unit from Jaiprakash Associate Limited in the year 2020. After that it had developed the Green belt of 50 to 100-meter width all along the plant boundary with 3-4 layers of local plant species trees. However, due to heavy rainfall in the month of August 2021 which was to the extent of 1275 mm and was the highest rainfall recorded in the region, in a very long time the green belt plantation was destroyed. Further the area wherein the Grinding Unit is established is a low-lying area. Therefore, water logging proved to be a big challenge in managing the survival rate of the green belt plantation. After that restoration process of green belt is going on till now Total 15775 saplings have been planted inside plant premises Miyawaki system for plantation in 1500 square meter (45 meter length 36 meter

width) is adopted by plant. In monsoon FY23-24 complete green belt implementation will be done.

63. We consider it necessary to verify the factual position regarding green belts raised by both the project proponents. We direct the Divisional Forest Officer, Prayagraj to verify the factual position and submit report as to whether respondents No. 4 and 5 have developed green belt over 33 % of project area which is stated to be measuring about 400 acres and 6.6 hectares respectively as mandated by EC and CTE/CTO consent conditions and to submit report specifying the deficiencies of green belt/plantation in terms of area, location, number and nature of species of trees and suggesting measures required to be taken by respondents No. 4-PPGCL and 5-UTCL for remedying deficiencies of green belt/plantation and the budget amount required for the same.

64. Respondents no. 4-PPGCL and 5-UTCL are directed to ensure that such deficiencies of green belt/plantation so mentioned in the report of the Divisional Forest Officer, Prayagraj are remedied so that requisite green belt/plantation of requisite width around the periphery of both the plants and over 33 % of the project area is raised during forth coming monsoon season and to file compliance report in this regard within four months.

65. In the present case the question of Corporate Social Responsibility of respondents no. 4 and 5 has arisen in the context of observations made by Joint Committee in its report that RO plant installed by respondent no. 4-PPGCL in Village Berui under its Corporate Social Responsibility was non-functional.

66. Section 135 (1) of the Companies Act, 2013 requires every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during the immediately preceding financial year to constitute a Corporate Social Responsibility Committee. Section 135 (3) of the Companies Act, 2013 mandates the Corporate Social Responsibility Committee to (a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company in areas or subject, specified in Schedule VII; (b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and (c) monitor the Corporate Social Responsibility Policy of the company from time to time. Section 135 (4) of the Companies Act, 2013 (mandates the Board of every such company to (a) approve the Corporate Social Responsibility Policy for the company after taking into account the recommendations made by the Corporate Social Responsibility Committee, and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and (b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company. Section 135 (5) of the Companies Act, 2013 further mandates the Board of such company to ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial year, or where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years. In pursuance of its Corporate Social Responsibility Policy The company has to give preference to the

local area and areas around it where it operates for spending the amount earmarked for Corporate Social Responsibility activities.

67. Schedule VII of the Companies Act, 2013 specifies the activities which may be included by the companies in their Corporate Social Responsibility policies and the same reads as under:

“Activities which may be included by companies in their Corporate Social Responsibility Policies

Activities relating to:—

¹[(i) eradicating hunger, poverty and malnutrition, ²[promoting health care including preventive health] and sanitation ³[Including contribution to the Swatch Bharat Kosh set-up by the Central Government for the promotion of sanitation] and making available safe drinking water;

(ii) promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;

(iii) promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;

(iv) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water ⁴[including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga];

(v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts;

(vi) measures for the benefit of armed forces veterans, war widows and their dependents, ⁵[Central Armed Police Forces (CAPE) and Central Para Military Forces (CPMF) veterans, and their dependents including windows];

(vii) training to promote rural sports, nationally recognised sports, paralympic sports and Olympic sports;

(viii) contribution to the Prime Minister's National Relief Fund or ⁶[Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) or] any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;

⁷[(ix) (a) Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and

(b) Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defense Research and Development Organisation (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs)]”

68. It may be observed that MOEF&CC issued office memorandum dated 01.05.2018 regarding Corporate Environment Responsibility. The relevant part of the letter reads as under:-

*“Sub: Corporate Environment Responsibility (CER) — reg.
The Environment Impact Assessment (EIA) Notification, 2006, issued under the Environment (Protection) Act, 1986, as amended from time to time, prescribes the process for granting prior environment clearance (EC) in respect of certain development projects/activities listed out in the Schedule to the Notification.*

2. Sustainable development has many important facets/components like social, economic, environmental, etc. All these components are closely inter-related and mutually re-enforcing. Therefore, the general structure of EIA document, under Appendix-III to the notification, prescribes inter-alia public consultation, social impact assessment and R&R action plan besides environment management plan (EMP).

3. Section 135 of the Companies Act, 2013 deals with Corporate Social Responsibility (CSR) and Schedule-VII of the Act lists out the activities which may be included by companies in their CSR Policies. The concept of CSR as provided for in the Companies Act, 2013 and covered under the Companies (Corporate Social Responsibility Policy) Rules, 2014 comes into effect only in case of companies having operating projects and making net profit as also subject to other stipulations contained in the aforesaid Act and Rules. The environment clearance given to a project may involve a situation where the concerned company is yet to make any net profit and/or is not covered under the purview of the aforesaid Act and Rules. In such cases, the provisions of aforesaid act and Rules will not apply.

4. In the past, it has been observed that different Expert Appraisal Committees / State Expert Appraisal Committees (EACs/SEACs) have been prescribing different formulation of the Corporate Environment Responsibility (CER) and no common principles are followed. Several suggestions have also been received in this regard which inter-alia states that Greenfield projects and Brownfield projects should be treated differently; no CER should be prescribed whereas there is no increase in air pollution load, R&R, etc., besides streamlining percentage of CER.
5. The Ministry has carried out a detailed stakeholder consultation which inter-alia included meeting with Ministry of Petroleum & Natural Gas, Ministry of Power, Chairmen EACs, FICCI, ASSOCHAM, Gujarat Chamber of Commerce and Industry amongst others.
6. In order to have transparency and uniformity while recommending CER by Expert Appraisal Committee (EAC) / State level Expert Appraisal Committee (SEAC) / District level Expert Appraisal Committee (DEAC), the following guidelines are issued:
- (I) The cost of CER is to be in addition to the cost envisaged for the implementation of the EIA/EMP which includes the measures for the pollution control, environmental protection and conservation, R&R, wildlife and forest conservation/protection measures including the NPV and Compensatory Aforestation, required, if any, and any other activities, to be derived as part of the EIA process.
- (II) The fund allocation for the CER shall be deliberated in the EAC or SEAC or DEAC, as the case may be, with a due diligence subject to maximum percentage as prescribed below for different cases:

S.No	Capital Investment / Additional Capital Investment (in Rs)	Greenfield Project - % of Capital Investment	Brownfield Project - % of Additional Capital Investment
I	II	III	IV
1	≤ 100 crores	2.0%	1.0%
2	> 100 crores to ≤	1.5%	0.75%
3	>500 crores to ≤ 1000	1.0%	0.50%
4	> From 1000 crores to	0.5%	0.25%
5	> 10000 crores	0.25%	0.125%

- (III) The activities proposed under CER shall be worked out based on the issues raised during the public hearing, social need assessment, R&R plan, EMP, etc.
- (IV) The proposed activities shall be restricted to the affected area around the project.

(V) Some of the activities which can be carried out in CER, are infrastructure creation for drinking water supply, sanitation, health, education, skill development, roads, cross drains, electrification including solar power, solid waste management facilities, scientific support and awareness to local farmers to increase yield of crop and fodder, rain water harvesting, soil moisture conservation works, avenue plantation, plantation in community areas, etc.

(VI) The entire activities proposed under the CER shall be treated as project and shall be monitored. The monitoring report shall be submitted to the regional office as a part of half-yearly compliance report, and to the District Collector. It should be posted on the website of the project proponent.

(VII) The District Collector may add or delete the activities as per the requirement of the District.

(VIII) The EAC can vary the above percentage of CER subject to proper diligence, quantification and justification. The EAC based on appraisal, should clearly suggest the activities to be carried out under CER.

(IX) This CER is not applicable in name change, transfer and amendment involving no additional project investment. In case of amendment in EC involving additional expenditure, CER will be applicable only on the additional expenditure as per column-IV of the table given in para 6(II) above.

7. This issues in supersession of all earlier OMs and guidelines issued in this regard."

69. A perusal of replies and compliance reports filed by respondent no. 4-PPGCL shows that EC conditions were imposed on respondent no. 4-PPGCL that an amount of Rs. 32 crores as capital and Rs.6 crores/annum as recurring should be earmarked for activities to be taken up under CSR by the above proponent.

70. It may be observed here that in accordance with the provisions of the Companies Act, 2013 respondent no. 4 has constituted CSR Committee and has adopted CSR Policy.

71. In its reply respondent no.4-PPGCL has submitted that during the Financial Year 2022-2023, it had allocated an amount of Rs. 6.17 crores under various heads for the CSR activities. The same has been incurred on the following areas:- (i) Education, (ii) Health and Sanitation, (iii) Skill

building, (iv) Social and financial inclusion. Copy of the PPGCL CSR Policy has been annexed as **ANNEXURE R4/25**. Respondent No.4 has submitted that PPGCL has also constructed and also repaired road of 6km road for villagers for a better connectivity to DAV school and the PPGCL Healthcare & Wellness Centre hospital which are within a vicinity of 5 KM. The total CSR expenditure incurred by PPGCL is presented in a tabular form as follows:-

CSR Expenditure FY 22-23		
S.No.	Thrust Area/ Programes	Amount (Lakhs)
1	Education	141.04
2	Health and Sanitation	143.85
3	Skilling for Livelihood	78.3
4	Social and Financial Inclusion	236.98
5	Total	600.17

72. The relevant part of reply regarding CSR compliances by PPGCL reads as under:-

“Re: Installation, Operationalisation and the monitoring of the 500 KLD RO Water Plant
A. Installation, Operationalisation and Maintenance of the RO Plant
It is submitted that as part of its CSR obligations, PPGCL has installed the RO Plant. As the said RO Plant was not functional due to the low voltage in the transformer, PPGCL took diligent steps towards the operationalisation of the said RO Plant by getting the transformer repaired with the assistance of concerned electrical department. For the ease of reference, the Photographs exhibiting the operationalisation of the RO plant has been marked and annexed as ANNEXURE R4/27. Furthermore, PPGCL has engaged the services of M/s Divyansh RO Water Supplier ("Independent Agency"), which is providing its expert services for the operationalisation and maintenance of the RO Plant. It is further pertinent to note that PPGCL incurs approximately Rs. 4.08 lakh per annum on the smooth and effective operation and maintenance of the RO Plant. PPGCL, in this regard, has also executed a Purchase Order with the Independent Agency dated 18.07.2023, for the purposes of

operation and maintenance of the RO Plant. The copy of the said Purchase Order dated 18.07.2023 placed by the PPGCL upon the Independent Agency is marked hereto and annexed as ANNEXURE R4/28.

B. Benefits of the RO Plant

In this regard, it is submitted that RO Plant installed by PPGCL has a capacity of about 500 litres/hr. and is catering to the needs of nearly 700 people residing in the Berui village.

C. Quality standards of the water

PPGCL being a diligent and a committed entity has always worked for the betterment of the society and in light of the aforesaid objective, it got installed as well as fully operationalised the RO Plant in Berui village. PPGCL, in order to demonstrate its bona fide, also got the water sample tested from the RO Plant, from an independent testing agency i.e. M/s Mitra S.K. Pvt. Ltd. ("Testing Agency"), which has also been accredited by the National Accreditation Board for Testing and Calibration Laboratories ("NABTCL") with the certificate of accreditation, which was issued on 18.09.2021. Furthermore, the CPCB vide its letter dated 17.02.2022 had recognised the Testing Agency as the Environmental laboratory under the aegis of the Environment (Protection) Act, 1986. As per clause 2 of the letter dated 17.02.2022 issued by CPCB to the Testing Agency, the scope of the tests that the Agency can undertake has been broadly defined.

The copy of the certificate of accreditation issued by NABTCL in favour of the Testing Agency dated 18.09.2021 as well as the letter of recognition issued by CPCB to the Testing Agency dated 17.02.2022 are annexed hereto and marked as ANNEXURE R4/29 (Colly.).

The testing agency in furtherance of the collection of the sample of water from the RO Plant submitted its report dated 06.07.2023 to PPGCL.

A perusal of the said report indicates that the parameters of the water being discharged from the RO Plant are within the desirable limit which is acceptable for drinking purposes as prescribed in the IS 10500:2012 which is a standard of drinking water parameters.

A copy of the Report dated 06.07.2023 is marked hereto and annexed as ANNEXURE R4/30.

Re: Skill building and livelihood

PPGCL has provided the following to the locals and residents of the nearby village:-

(a) Training in solar panel installation, LED repairing and handset repairing through National Skill Development Corporation. After training a minimum of 70% trained youth will be placed through training partner.

(b) Provided tailoring training to the women.

Photographs to this extent has been marked and annexed as ANNEXURE R4/27.

Re: Education sector

PPGCL has provided the following in terms of the education field:-

- (a) Providing support to the DAV Sardar Patel Public School by establishing a science lab separate for each branch i.e. physics, chemistry and biology.
 - (b) Establishment of the computer lab with 20 computers.
 - (c) Providing sports items/equipments and musical instruments.
 - (d) Installed/Set-up 10 smart classes and green chalk board installed in each classroom.
 - (e) Providing drinking water facility.
 - (f) Fencing of open gallery of first and second floor of school building.
 - (g) Installation of the solar panel of 204 kW at the school building.
 - (h) Providing 50% / substantial amount of subsidy to the children of Project affected people.
- Photographs to this extent has been marked and annexed as ANNEXURE R4/28.

Re: Health and sanitation services

PPGCL has provided the following services qua the health and medical services in the village area. It is noteworthy that most of the below mentioned services have been started and are being regularly provided post 2019 takeover:-

- (a) Development of a health centre, having various services like OPD, Pharmacy, Pathology, X-ray and ECG.
- (b) Development of COVID vaccination centres operating in Prayagraj, Bareilly, Shravasti and Gondal in association with the International Association for Human Value ("IAHV"). A total of 68,720 people have been vaccinated in the said centres.
- (c) Distributed ration to 1,252 families in COVID-19.
- (d) Distributed face masks and also conducted sanitisation work in surrounding villages, hospitals, police station and tehsil.
- (e) Conducted five day health awareness program for women and girls in surrounding villages and distributed sanitary kit.
- (f) Health and sanitation awareness done in surrounding village school.
- (g) Installation of solar panel of 61 kW at the hospital roof. Photographs demonstrating the same has been marked and annexed as ANNEXURE R4/29.

Re: Entrepreneurship

PPGCL has further set up Fly Ash brick and block unit which is being operated through the NGO Gramin Vikas Samittee.

Re: Social & Financial Inclusion

PPGCL has contributed to a huge extent to the social wellbeing of the locals and the inhabitants of the village area by undertaking the following activities:-

- (a) Installed 50 Nos. of solar light in the surrounding community.
- (b) Check dam constructed in Jorwat village.
- (c) Installed 25 Nos. of handpumps.
- (d) Installed treated drinking water system.
- (e) Got 445 beneficiaries enrolled/ registered under the E-shram card scheme.
- (f) Got 246 beneficiaries registered under labour card.

(g) Got 270 nos. of domicile, cast and income certificate made for the people of the local community from government offices.

(h) Repaired approximately 6km of road, which is connecting the school and the hospital.

(i) Provided nutritional supplements to 100 TB patients for six

months in line with State Government of UP and Government of India guidelines for the TB patients.

Photographs to this extant has been marked and annexed as ANNEXURE R4/30.

Re: Installation and Operationalisation of the 500 KLD RO Water Plant

It is submitted that PPGCL has not just installed but also got the operationalisation of the RO Plant installed at village Berui, Prayagraj. Photographs exhibiting the operationalisation of the RO plant has been marked and annexed as ANNEXURE R4/31.”

73. Respondent no.4-PPGCL had installed 500 KLD RO Plant in village Berui as part of its CSR obligations for supply of drinking water. During visit by the Joint Committee RO plant was found non-operational. The Joint Committee recommended that Respondent no.4-PPGCL should ensure proper functioning and maintenance of RO plant installed by them for supply of drinking water as no piped water supply is made for the villagers.

74. In its reply respondent No. 4-PPGCL has submitted that it has already discharged its responsibility towards installation of the RO Plant as part of its CSR obligations and the maintenance, operation, payment of electricity bills, regulation of quantity of water to be supplied and other decisions in respect thereto are to be taken by the Gram Panchayat. The RO Plant was handed over by PPGCL to the Gram Pradhan of village Berui and letter dated 30.06.2021 was issued by PPGCL to him.

75. Respondent No.4 has further submitted that the issue of non-operation of the RO plant was not attributable to PPGCL in as much as

the reasons for its non-operation were on account of inadequate voltage supply and PPGCL took earnest steps to resolve the said issue.

76. We find that the living population in Village Berui is about about 250-300 and Gram panchayat of village Berui may not be having sufficient resources. Such lack of resources may render RO plant non-functional and may result in complete denial to the villagers of the benefit of the facility created by Respondent No. 4- PPGCL under its Corporate Social Responsibility. On the other hand respondent no. 4- PPGCL has sufficient funds under its Corporate Social Responsibility. In these facts and circumstances we consider it to be appropriate to direct and accordingly direct Respondent No. 4 PPGCL to take over the responsibility of maintenance, operation of payment of electricity bills, regulation of quality of water to be supplied and other decisions in respect thereto and meet the requisite expenses out of its Corporate Social Responsibility Funds. Respondent No. 4-PPGCL also has set up RO plants in other villages under its Corporate Social Responsibility and Respondent No. 4- PPGCL is directed to take over the responsibility of maintenance, operation, payment of electricity bills, regulation of quality of water to be supplied and other decisions in respect thereto and meet the requisite expenses out of its Corporate Social Responsibility Funds.

77. Condition was imposed on respondent no. 5-UTCL that a CSR plan shall be prepared and implemented in consultation with the local villages and administration. Issues raised/covered during public hearing and incorporated in the EMP and CSR plan. During construction phase of the project, an expenditure of about minimum 5% of the capital expenditure shall be earmarked for CSR activity spread over 5 years/period of construction of project. During operation phase of the project, the CSR

activity will be funded based on 2% of the profit during operation phase of the project. 70% of the employment shall be made from the local population. The annual capital and recurring expenditure on CSR village-wise and activity-wise shall be uploaded on the company website and also included in the annual report of the company.

78. In compliance report respondent no. 5-UTCL has mentioned that since the handover and operations of Unit from March, 2020, Unit is doing CSR Activities at Unit level. Further in addition, Company is also doing substantial CSR activities and actively contributing to social and economic development of the communities in which it operates, as per provisions of Companies Act, details of which are available in their annual reports.

79. Respondent no. 5-UTCL has mentioned some of the CSR activities which have been done by Unit as under:

*“1. RO plant installation in shankargarh hospital .
2. Green belt and road construction near railway gate at Bemra station for protection of flood condition to nearby villager/farmer.
3. Hand pump installation for villager as due to rocky area water availability is very low. ladies are going 2 to 3km for water
4. Health Camp for nearby villagers
5. Bags/books distribution for School children
6. Women help line cell.
7. More than 70% employment given to local community 280 out of 396.
8. Training for livelihood and skill enhancement given to local community.
CSR Activities already undertaken for FY-2020-21, 2021-22 and 2022-23(with photographs), along with proposed CSR Activities for FY 2023-24 and 2024-25 along with budget, is attached at **Anexure-9**.
Relevant pages of Annual Report of Company for FY-2021-22, is attached at **Annexure-10”***

80. In its reply Respondent No. 5 has submitted that respondent No.5 has consciously invested in a robust Corporate Social Responsibility

Programme, which inter alia includes measures and support extended by way of: (i) Promotion of Education through scholarships and assistance in kind; (ii) Health Programmes, (iii) Sustainable livelihood programmes, (iv) Schemes for Infrastructural Development, (v) Measures for Social Empowerment and welfare, (vi) COVID 19 Relief and assistance.

81. We are of considered view that the CSR & CER activities implemented/being implemented by respondents no. 4-PPGCL and 5-UTCL need to be in the vicinity of the project and surrounding areas with active participation of the civil society, other stakeholders with involvement of concerned Departments of the State Government.

82. We, therefore direct respondents no. 4-PPGCL and 5-UTCL to invest/incur CSR/CER funds for the Environmental Management, Nature Conservation and Community Development activities in Prayagraj District in the vicinity of project area. The activities related to Environmental Management, Nature Conservation and Community Development required to be undertaken/implemented in the field may include the following:

- i. Afforestation programme with native tree species be undertaken in the common property resources (CPRs) in the villages of the Prayagraj District. The plantation to be carried out be geo-tagged. The identification of land be made by DM and CDO and Forest Department need to associated for the plantation. The shelter belts be developed on the periphery of project area with fast growing tree species in 3-4 layers for the prevention and control of dust emission.;

- ii. Mass Awareness Programme be launched involving Colleges, Schools, Voluntary Agencies, Civil Societies, Public representatives for Conservation and Management of the Environment. Eco-clubs may also be constituted in the Colleges/Schools/Panchayats. The work may be undertaken through the District Education Officer (DEO) of District Prayagraj and necessary funds may be provided for this purpose by Project Proponent from the amount earmarked under CSR/CER activities;
- iii. Solar powered LED street lights may be provided in the villages located in the vicinity of the Project;
- iv. Soil and Water Conservation works may be implemented in the areas by involving the Departments of Soil and Water Conservation and Panchayati Raj;
- v. The Wetlands, Lakes and Ponds available in the District may be brought under rehabilitated program by involving concerned departments of the district Prayagraj;
- vi. Some schools in the District may also be developed as Digital School using CSR fund involving CDO and District Education Officer (DEO); and
- vii. The Mobile Dispensary/Ambulance equipped with necessary medicines, doctor & para Medical Staffs may be made available from the CSR fund for extending Medical facilities in the villages having no or poor Health care facilities in District Prayagraj. The work may be implemented by involving CMO in consultation with DM.

- viii. Skill Development Program need to be implemented in the area by opening training institutions for imparting training to the youth.

Directions by the Tribunal

83. In view of the above, we consider issuance of appropriate directions to be essential and accordingly issue the following directions:-

- i. CPCB, Integrated Regional Office, MoEF & CC and UPSPCB are directed to evolve an effective mechanism of monitoring compliance with EC/consent conditions stipulated to the projects for ensuring environmental friendly sustainable development.
- ii. Respondent no.4-PPGCL and respondent no. 5-UTCL being zero liquid discharge units are directed to ensure that treated industrial effluent and domestic sewage are used for industrial purposes/horticulture/plantation and are not discharged in storm water drain except during monsoon.
- iii. Respondent no. 2-UPSPCB is directed to undertake requisite study through subject experts to examine quality and fitness of ground water for use as drinking water, ascertain the causes of contamination of ground water, recommend remedial measures required to be taken and direct the concerned Authorities and the Project Proponents, as the case may be, to take the same.
- iv. Respondent no. 4-PPGCL is directed to ensure management and disposal of fly ash as per notifications issued by the MoEF & CC and guidelines issued by CPCB and UPSPCB.

- v. UPSPCB is directed to look into the aspect of requirement of installation of Dust Separation System and Dust Extraction system at additional points as recommended by the Joint Committee at the time of next inspection of PPGCL and UTCL and issue appropriate directions in this regard.
- vi. UPSPCB is directed to perform the ambient air monitoring at Berui village to ascertain the pollution level in referenced area and look into the cause if PM₁₀ (ug/m³) in front of the house of the applicant, if the same is higher than PM₁₀ (ug/m³) at other locations and suggest remedial measures, if any required.
- vii. The Divisional Forest Officer, Prayagraj is directed to verify the factual position as to whether respondents No. 4-PPGCL and 5-UTCL have developed green belt on 33 % of the project area which is stated to be measuring about 400 acres and 6.6 hectares respectively as mandated by EC and CTE/CTO consent conditions and to submit report within one month specifying the deficiencies of green belt/plantation in terms of area, location, number and nature of species of trees and suggesting measures required to be taken by respondents No. 4-PPGCL and 5-UTCL for remedying deficiencies of green belt/plantation and the budget amount required for the same.
- viii. Respondents no. 4-PPGCL and 5-UTCL are directed to ensure that such deficiencies of green belt/plantation so mentioned in the report of the Divisional Forest Officer, Prayagraj are remedied so that requisite green belt/plantation of requisite width around the periphery of the plants and over 33 % of the project area is raised during forth coming monsoon season

and to file compliance report in this regard within four months.

- ix. Respondent No. 4 PPGCL is directed to take over the responsibility of maintenance, operation, payment of electricity bills, regulation of quality of water to be supplied and other decisions in respect ROs installed by it under its Corporate Social Responsibility and meet the requisite expenses out of its CSR fund and to file separate compliance report in this regard within two months.

84. Reports as mentioned above be filed by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF, before the Ld. Registrar General, National Green Tribunal, Principal Bench, New Delhi who may, if necessary, put up the matter before this Bench for further directions.

85. The application is disposed of with the directions as mentioned above while leaving the parties to bear their own costs.

86. A copy of this order be forwarded by email to the applicant for information and to the respondents for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 22nd, 2024

Ag