

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Appeal No.06/2020/EZ
(I.A. No.183/2022/EZ)

Sanjay Chauhan

Appellant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 29.08.2022.

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Appellant(s) : Mr. Saurabh Sharma, Advocate (in Virtual Mode)

For Respondent(s) : Mr. Debasish Ghosh, Advocate for R-1 (in Virtual Mode),
Mr. Anoop Kumar Mehta, Advocate for R-2,
Mr. Dipanjan Ghosh, Advocate for R-3,
Mr. Surendra Kumar, Advocate and
Mr. Dhilon Sengupta, Advocate for R-4,
Ms. Aishwarya Rajyashree, Advocate for R-5 (in Virtual Mode)

ORDER

1. Mr. Saurabh Sharma, learned Counsel is present (in Virtual Mode) for the Appellant.
2. Affidavit dated 27.07.2022 has been filed by Respondent No.4, Jharkhand State Pollution Control Board; the same is taken on record
3. Counter-affidavit dated 26.08.2022 has been filed by Respondent No.2, M/s Central Coalfields Limited; the same is taken on record.
4. Supplementary affidavit dated 27.08.2022 has been filed by Respondent No.4, Jharkhand State Pollution Control Board; the same is taken on record.
5. Along with the affidavit of Jharkhand State Pollution Control Board dated 27.08.2022 an Inspection Report has been filed of an inspection carried out on 17.08.2022. The Inspection Report reads as under: -

Sl. No.	Six points as mentioned in the last report of the committee	Compliance status of the points
1	Catch drains and toe walls around OB dump and catch drain coal dump	Partially complied. Improvements observed from last inspections. During site inspection on 17.08.2022, Kutcha drains and siltation ponds on the sides of Dudhmatia nala i.e. between coal transportation road and Dudhmatia nala were observed but at some places the drains were silted. Also there remains some places in between coal transportation road and Dudhmatia nala at those places. Later, PP vide their letter no.PO/AMP/Compliance 2022-23/1048 dated 22.08.2022 and email dated 22/08/2022 reported that “Catch drain and Siltation Pond has been desilted at Coal Stocks, Haul road and OB dump. It is of regular practice in Amrapali Project to clean the drain and siltation pond as frequent choking occurs due to storm water in rainy seasons”. Few photographs dated 22.08.2022 have also been submitted showing some desiltation of drains adjacent to Dudhmatia nallah (Please see annexure for the PPs letter, photographs and documents submitted). Catch drains, siltation ponds and toe walls around Honhe external dump was provided.

		<i>Catch drains siltation ponds and the toe walls were constructed in the west side of Bingalat O/B dump. However, in the Bingalat O/B dump facing Dudhmatia nala (i.e. after check dam structure) catch drain siltation ponds, retaining wall was not provided. Project officials explained that local villagers do not allow to do any civil work there.</i> <i>Kutcha drains were observed in the north direction of internal OB dump. (west section) also.</i> <i>In the coal transportation route from Amrapali project to Shivpur Railway siding Kutcha drains were made at some places but at many other places drains were not constructed. Due to non-availability of drains siltation ponds there were chances of coal silt flowing into natural ponds, agricultural fields, forest areas.</i> <i>Drains and siltation ponds were constructed to protect the silt flowing into the natural nallah/stream (Honhe nalla) flowing in between the project and Railway siding. Jute netting was observed there for development of grassing.</i> <i>Catch drain and siltation pond was observed adjacent to weighbridge no.6 to prevent coal silt from flowing outside but at other weighbridges catch drains and siltation ponds need to be constructed.</i> <i>Drains were constructed between the coal transportation route and forest</i>
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		area in front of weighbridge no.6, 7 but siltation ponds were not constructed there.
2	On the creation of an extra external OB dump	Being complied but further action needed for full compliance. Rehandling of OB from Honhe external OB dump (the extra external OB dump) was observed during inspection. Shovels and dumpers/trucks were deployed to excavate OB from Honhe external OB dump to internal dump. PP has submitted a copy of letter vide letter ref. no. PO(A)/PD/2022-23/1050 dated 23.08.2022 signed by Project Officer, Amrapali OCP, in which PP reports that “The original quantity of OB in Honhe dump was 124.50 M. Cum as on July 2021. Re-handling of OB Dump continued and now the quantity balance is about 12.50 M Cum”. Project authorities explained that in the beginning of project due to unavailability of Land/space they had to stack the OB from mine in Honhe dump. However, there is coal beneath the Honhe dump and therefore the whole OB is being shifted so that coal beneath can be excavated from there.
3	On the creation of avenue plantation/green belt	Partially complied. Plantations were observed on the top of the internal OB dump. Some plantations were observed in the south direction of the mine pit adjacent to retaining all. Greenbelt was observed at the

		<i>Railway siding but more trees are required to be grown at the remaining portions so that an effective dust barrier is developed there. Avenue plantation was also observed in the project adjacent to the road for approx. 350-400m. however, black/grey OB material/shale was observed over which avenue plantation was developed that may lead to low survival rate. Project officials explained that they have started to put top soil in the avenue plantation.</i> <i>PP vide their letter and email dated 22/08/2022 submitted that “along the NBCC six lane pucca road for transportation of Coal, Avenue plantation on Shell and by spreading Top soil is in progress. Timeline: - September 2022”. Few photographs dated 22.08.2022 have also been submitted in support of above (please see annexure for the PPs letters, photographs and documents submitted).</i> <i>Avenue plantation was also observed along the road in between proposed colony area to Honhe external dump at some stretches. However, there are many areas in the project in which plantations/green belt can be developed (i.e. on the slopes of internal OB dump, along the banks of Dudhmatia nallah, project area to weighbridge number 6 etc.) PP should make arrangements to develop more</i>
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		plantations in the project area. Similarly grassing on the slopes of internal OB dump should be initiated in this monsoon. Grassing on the remaining slopes of Bingalat OB dump facing Dudhmatia nala should also be done in this monsoon. PP has submitted copy of surface plan dated 22/08/2022 signed by colliery surveyor and colliery manager showing proposed plantation area for monsoon season of 2022 and 2023. In the plan it is shown that PP shall do avenue plantation near weighbridge numbers 7, 21, 6 and for five hectares adjacent to and on the slopes of internal OB dump in year 2022. PP has shown in the surface plan that they shall take up plantation work for 5 km*2 (total 10 km) along coal transportation road from project to Shivpur Railway siding and 3 km*2 (total 6 km) along the embankment between proposed diverted road and Barki river in the year 2023. A wall was observed in the east direction of mine pit in between mine pit and Manwatongri village. It was informed by PP that since the mine pit would advance towards that east direction they had not planted trees in that direction. However, since there were habitations in the village it would be appropriate if some dust barrier was provided in between mine and that village.
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		Later, PP vide their letter no. PO/AMP/Compliance 2022-23/1048 dated 22.08.2022 and email dated 22/08/2022 reported that “Wind breaking curtains have been installed near Manwatongri Village above the retaining wall”. Few photographs dated 22.08.2022 have also been submitted showing wind breaking curtains over the wall (please see annexure for the PPs letters, photographs and documents submitted).
4	Contaminated run off flowing into Barki river/Dudhmatia nala	Partially complied. Action has been initiated by PP for compliance. During site inspection on 17.08.2022, Jute netting was observed the side slopes of Dhudhmatia nala on one side for some stretches but on opposite side slopes and for remaining stretches jute netting was not done. Grasses have started to grow on the jute nets at some places. Later, PP vide their letter no. PO/AMP/Compliance 2022-23/1048 dated 22.08.2022 and email dated 22/08/2022 reported that “Work for Stability of Slope by Jute Netting on both side of Dudhamtia Nallah near Manwatongri and Binglat OB dump has been completed. The seeds of grass have been spread which will significantly grow within a month”. Few photographs dated 22.08.2022 have also been submitted showing ongoing jute netting work in some

		portions on the side slopes of Bingalat OB dump facing Dudhmatia nallah and also in Camp area on the Both Sides of Dudhmatia nallah (please see annexure for the PPs letters, photographs and documents submitted). Siltation ponds were observed in the low lying area before river Barki. A check dam had been constructed on Dudhmatia nala on its way to river Barki. However, there was a hole/passage made there that would defeat its purpose for silt control. Project authorities explained that local villagers had recently broken the checkdam in one corner for irrigation but they would make arrangements (like providing gabions) etc. so that silt control happens there. Also please refer Sl. No.1 compliance status because provision of catch drains and siltation ponds along coal dump has effect on quality of Dudhmatia nallah.
5	Spontaneous combustion in coal dump, and	Complied. Spontaneous combustion was not observed in the coal dumps of the project during inspection on 17.08.2022.
6	Inadequacy of water sprinklers for controlling fugitive emissions	Being complied but further action needs. Mobile water tankers were observed sprinkling water on the haul roads of the project at different locations. Large capacity (28 KL) mist water sprinklers were also observed sprinkling on haul roads of project.

		PP has submitted details of 4 departmental water tankers (for the months of May, June, July, August 2022) and 6 contractual water tankers (for April, May, June, July 2022). As per the submitted data running hours of 4 departmental water tankers were below 2 hours/shift and it should be improved. Fixed water sprinklers have been provided in SHivpur Railway siding (where the coal from Amrapali project is transported and from there loaded into railway wagons) and were operational. However, fixed water sprinklers were not observed in the mine project area. PP vide their letter no. PO/AMP/Compliance 2022-23/1048 dated 22.08.2022 and email dated 22/08/2022 reported that “Work for Fixed water sprinkler is in progress on transportation Road. Timeline October 2022. Catch drain Work at Transportation Route is in progress. Timeline September 2022”. Few photographs dated 22.08.2022 have also been submitted showing installation of fixed water sprinklers on haul roads in the project (please see annexure for the PPs letters, photographs and documents submitted). It was instructed to operationalize the fixed water sprinklers as soon as possible and send the geotagged photographs in support.
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		<i>During inspection dust emissions was observed at internal OB dump when trucks plied there. It was instructed that path of each water tanker should be defined so that regular water sprinkling/wetting of haul roads be done. Five (5) fog cannon were observed in the project which were yet to be made operational. Project officials assured that fog cannons shall be installed and made operational within one month.</i> <i>Fabric wind sheet was observed at the Shivpur railway siding for control of dust propagation. Metal sheet boundary was also constructed for a stretch at the Shivpur boundary was also constructed for a stretch at the Shivpur railway siding. Project officials assured that gradually they will replace fabric windsheets with metal sheets for better life and effectiveness.</i> <i>Fabric wind sheets were also observed along the coal transportation route near Honhe village to prevent dust propagation into villages. Project officials assured that fabric wind sheets shall be extended to other portions so that village homes gets insulated from road dust.</i> <i>PM₁₀ analyser was observed at the Shivpur Railway siding and it was connected to JSPCB server. PM₁₀</i>
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		value was within prescribed limit during inspection. Continuous Ambient Air Quality monitoring station was observed at the Project Officer's and it was connected to JSPCB server. PP has submitted a copy of print out of real time data acquisition and monitoring data of the period 11-07-2022 to 21-07-2022 for CAAQMS in which PP has submitted monitoring data PM_{2.5}, PM₁₀, NO_x, NO₂, SO₂, CO etc. As per the submitted data parameters were found within limit. Tarpaulene covering was observed on some coal transportation trucks but on some coal transportation trucks tarpaulene covering was not done. Project officials explained that there was one more weighbridge ahead and these remaining coal trucks shall have tarpaulene covering after weighment in that weighbridge. In any case coal spillage was observed on road/road edge in the coal transportation route. Later, PP vide their letter and email dated 22/08/2022 submitted that "Trucks are fully covered after weighment from Weighbridge and it is being ensured by securities at checkpoints".
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Note: Photos taken during inspection on 17.08.2022 as mentioned/referred in the compliance status are enclosed as annexure I. PP's letter No. PO/AMP/Compliance 2022-23/ 1048 dated 22.08.2022, other documents, photographs, also enclosed in annexure II."

6. Mr. Saurabh Sharma, learned Counsel for the Appellant, prays for and is granted one-week time for filing rejoinder affidavit.

7. **List on 14.09.2022.**

I.A. No.183/2022/EZ: -

1. This Interlocutory Application has been filed by the Member Secretary, Jharkhand State Pollution Control Board with the prayer (a) to recall/modify the order dated 13.07.2022 and waive the cost of Rs.25,000/- (Rupees Twenty-five thousand only) imposed on the applicant, Member Secretary, Jharkhand State Pollution Control Board. A further prayer (b) has been made to direct the Chief Secretary, Govt. of Jharkhand not to take action against the Member Secretary, Jharkhand State Pollution Control Board.
2. So far as the relief (a) is concerned, we allow this Interlocutory Application and modify our order dated 13.07.2022 and waive the cost of Rs.25,000/- (Rupees Twenty-five thousand only) imposed upon the applicant, Member Secretary, Jharkhand State Pollution Control Board.
3. So far as the direction to the Chief Secretary, Govt. of Jharkhand for taking action against the applicant, Member Secretary, Jharkhand State Pollution Control Board made in relief (b) is concerned, we reject the said prayer.
4. The I.A. No.183/2022/EZ is accordingly disposed of.

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B. Amit Sthalekar, JM

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Saibal Dasgupta, EM

August 29, 2022,
Appeal No.06/2020/EZ
(I.A. No.183/2022/EZ)
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