

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA**

.....
APPEAL No.01/2023/EZ

IN THE MATTER OF:

**1. Eastern Coalfield Limited,
Having its Registered Office at Sanctoria,
Post Office Dishergarh, Police Station Kulti,
District Burdwan acting through the Agent,
Nirsa Colliery, Dhanbad, Jharkhand,
Pin – 828205,**

**2. The Agent, Nirsa Colliery,
Eastern Coalfields Limited,
Dhanbad, Jharkhand,
Pin – 828205**

....Appellant(s)

Versus

- 1. Union of India
Service through the Secretary,
Ministry of Jal Shakti,
Department of Water Resources,
RD & GR having its office at 6th Floor,
Shram Shakti Bhawan,
New Delhi – 110001,**
- 2. Central Ground Water Authority,
Represented by the Member Secretary,
Having its office at 18/11, Jamnagar House,
Mansingh,
New Delhi – 110011,**
- 3. Regional Director,
Central Ground Water Board,
Mid-Eastern Region (MER),,
6th& 7th Floor, Lok Nayak Jayaprakash Road,
Frazer, DakBunglow,
Patna – 800011,**

....Respondent(s)

COUNSEL FOR APPELLANT(S):

Mr. Pradip Kumar Dutta, Sr. Advocate a/w Mr. Saunak Sengupta, Advocate and Mr. Pradipta Bose, Advocate

COUNSEL FOR RESPONDENT(S) :

Mr. Ashok Prasad, Advocate for R-1 to 3,

WITH

APPEAL No.03/2023/EZ

IN THE MATTER OF:

- 1. Eastern Coalfield Limited,
Having its Registered Office at Sanctoria,
Post Office Dishergarh, Police Station Kulti,
District Burdwan acting through the Agent,
Rajpura OC, Dhanbad, Jharkhand,
Pin – 828205,**
- 2. The Manager, Office of the Manager,
Rajpura OC Colliery,
P.O. – Rajpura, P.S. – Nirsa,
Dhanbad, Jharkhand,
Pin – 828205**

....Appellant(s)

Versus

- 1. Union of India,
Service through the Secretary,
Ministry of Jal Shakti,
Department of Water Resources,
RD & GR having its office at 6th Floor,
Shram Shakti Bhawan,
New Delhi – 110001,**
- 2. Central Ground Water Authority,
Represented by the Member Secretary,
Having its office at 18/11, Jamnagar House,
Mansingh,
New Delhi – 110011,**
- 3. Regional Director,
Central Ground Water Board,
Mid-Eastern Region (MER),,
6th & 7th Floor, Lok Nayak Jayaprakash Road,
Frazer, Dak Bunglow,
Patna – 800011,**

....Respondent(s)

COUNSEL FOR APPELLANT(S):

Mr. Saunak Sengupta, Advocate and Mr. Pradipta Bose, Advocate

COUNSEL FOR RESPONDENT(S) :

Mr. Ashok Prasad, Advocate for R-1 to 3,

WITH

APPEAL No.04/2023/EZ

IN THE MATTER OF:

- 1. Eastern Coalfield Limited
Having its Registered Office at Sanctoria,
Post Office Dishergarh, Police Station Kulti,
District Burdwan acting through the Agent,
Barmuri OC, Dhanbad, Jharkhand,
Pin – 828205**
- 2. The Manager,
Barmuri OC Colliery,
Office of the Manager Barmuri Ocp.
P.O. – Chirkunda, P.S. – Chirkunda,
Dhanbad, Nirsa, Jharkhand,
Pin – 828202,**

....Appellant(s)

Versus

- 1. Union of India,
Service through the Secretary,
Ministry of Jal Shakti,
Department of Water Resources,
RD & GR having its office at 6th Floor,
Shram Shakti Bhawan,
New Delhi – 110001,**
- 2. Central Ground Water Authority,
Represented by the Member Secretary,
Having its office at 18/11, Jamnagar House,
Mansingh,
New Delhi – 110011,**
- 3. Regional Director,
Central Ground Water Board,
Mid-Eastern Region (MER),,
6th & 7th Floor, Lok Nayak Jayaprakash Road,
Frazer, Dak Bunglow,
Patna – 800011,**

....Respondent(s)

COUNSEL FOR APPELLANT(S):

Mr. Saunak Sengupta, Advocate and Mr. Pradipta Bose, Advocate

COUNSEL FOR RESPONDENT(S) :

Mr. Ashok Prasad, Advocate for R-1 to 3,

WITH

APPEAL No.05/2023/EZ

IN THE MATTER OF:

**1. Eastern Coalfield Limited,
Having its Registered Office at Sanctoria,
Post Office Dishergarh, Police Station Kulti,
District Burdwan acting through the Agent,
Barmuri OC, Dhanbad, Jharkhand,
Pin – 828205**

**2. The Manager,
Chapapur Colliery,
P.O. – Nirsa, P.S. – Nirsa,
Dhanbad, Nirsa, Jharkhand,
Pin – 828205**

....Appellant(s)

Versus

- 1. Union of India,
Service through the Secretary,
Ministry of Jal Shakti,
Department of Water Resources,
RD & GR having its office at 6th Floor,
Shram Shakti Bhawan,
New Delhi – 110001,**
- 2. Central Ground Water Authority,
Represented by the Member Secretary,
Having its office at 18/11, Jamnagar House,
Mansingh,
New Delhi – 110011,**
- 3. Regional Director,
Central Ground Water Board,
Mid-Eastern Region (MER),,
6th & 7th Floor, Lok Nayak Jayaprakash Road,
Frazer, Dak Bunglow,
Patna – 800011,**

....Respondent(s)

COUNSEL FOR APPELLANT(S):

Mr. Saunak Sengupta, Advocate and Mr. Pradipta Bose, Advocate

COUNSEL FOR RESPONDENT(S) :

Mr. Ashok Prasad, Advocate for R-1 to 3,

WITH

APPEAL No.06/2023/EZ

IN THE MATTER OF:

- 1. Eastern Coalfield Limited,
Having its Registered Office at Sanctoria,
Post Office Dishergarh, Police Station Kulti,
District Burdwan acting through the Agent,
Lakhimata OC, Dhanbad, Jharkhand,
Pin – 828205,**
- 2. The Manager,
Office of the Manager,
Lakhimata Colliery,
P.O. – Nirsachatti, Nirsa,
Dhanbad, Nirsa, Jharkhand,
Pin – 828205,**

....Appellant(s)

Versus

- 1. Union of India
Service through the Secretary,
Ministry of Jal Shakti,
Department of Water Resources,
RD & GR having its office at 6th Floor,
Shram Shakti Bhawan,
New Delhi – 110001,**
- 2. Central Ground Water Authority,
Represented by the Member Secretary,
Having its office at 18/11, Jamnagar House,
Mansingh,
New Delhi – 110011,**
- 3. Regional Director,
Central Ground Water Board,
Mid-Eastern Region (MER),,
6th & 7th Floor, Lok Nayak Jayaprakash Road,
Frazer, Dak Bunglow,
Patna – 800011,**

....Respondent(s)

COUNSEL FOR APPELLANT(S):

Mr. Saunak Sengupta, Advocate and Mr. Pradipta Bose, Advocate

COUNSEL FOR RESPONDENT(S) :

Mr. Ashok Prasad, Advocate for R-1 to 3,

WITH

APPEAL No.07/2023/EZ

IN THE MATTER OF:

- 1. Eastern Coalfield Limited,
Having its Registered Office at Sanctoria,
Post Office Dishergarh, Police Station Kulti,
District Burdwan acting through the Agent,
Barmuri OC, Dhanbad, Jharkhand,
Pin – 828205,**
- 2. The Manager,
Kapasara OC Colliery,
P.O. – Mugma, Nirsa,
Dhanbad, Nirsa, Jharkhand,
Pin – 828204,**

....Appellant(s)

Versus

- 1. Union of India
Service through the Secretary,
Ministry of Jal Shakti,
Department of Water Resources,
RD & GR having its office at 6th Floor,
Shram Shakti Bhawan,
New Delhi – 110001,**
- 2. Central Ground Water Authority,
Represented by the Member Secretary,
Having its office at 18/11, Jamnagar House,
Mansingh,
New Delhi – 110011,**
- 3. Regional Director,
Central Ground Water Board,
Mid-Eastern Region (MER),,
6th & 7th Floor, Lok Nayak Jayaprakash Road,
Frazer, Dak Bunglow,
Patna – 800011,**

....Respondent(s)

COUNSEL FOR APPELLANT(S):

Mr. Saunak Sengupta, Advocate and Mr. Pradipta Bose, Advocate

COUNSEL FOR RESPONDENT(S) :

Mr. Ashok Prasad, Advocate for R-1 to 3,

WITH

APPEAL No.08/2023/EZ

IN THE MATTER OF:

- 1. Eastern Coalfield Limited,
Having its Registered Office at Sanctoria,
Post Office Dishergarh, Police Station Kulti,
District Burdwan acting through the Agent,
Nirsa Colliery, Dhanbad, Jharkhand,
Pin – 828205,**
 - 2. The Manager,
Kumardhubi Colliery,
P.O. – Chirkunda, P.S. - Chirkunda,
Sub District - Dhanbad, Dhanbad, Jharkhand,
Pin – 828202,**
-Appellant(s)**
- Versus**

- 1. Union of India
Service through the Secretary,
Ministry of Jal Shakti,
Department of Water Resources,
RD & GR having its office at 6th Floor,
Shram Shakti Bhawan,
New Delhi – 110001,**
 - 2. Central Ground Water Authority,
Represented by the Member Secretary,
Having its office at 18/11, Jamnagar House,
Mansingh,
New Delhi – 110011,**
 - 3. Regional Director,
Central Ground Water Board,
Mid-Eastern Region (MER),,
6th & 7th Floor, Lok Nayak Jayaprakash Road,
Frazer, Dak Bunglow,
Patna – 800011,**
-Respondent(s)**

COUNSEL FOR APPELLANT(S):

Mr. Saunak Sengupta, Advocate and Mr. Pradipta Bose, Advocate

COUNSEL FOR RESPONDENT(S) :

Mr. Ashok Prasad, Advocate for R-1 to 3,

WITH

APPEAL No.09/2023/EZ

IN THE MATTER OF:

- 1. Eastern Coalfield Limited,
Having its Registered Office at Sanctoria,
Post Office Dishergarh, Police Station Kulti,
District Burdwan acting through the Agent,
Khoodia OC, Dhanbad, Jharkhand,
Pin – 828205,**
 - 2. The Manager,
Office of the Manager, Khoodia Colliery,
P.O. – Nirsachatti, P.S. - Nirsa,
Sub District - Dhanbad, Dhanbad, Jharkhand,
Pin – 828202,**
-Appellant(s)**
- Versus**

- 1. Union of India,
Service through the Secretary,
Ministry of Jal Shakti,
Department of Water Resources,
RD & GR having its office at 6th Floor,
Shram Shakti Bhawan,
New Delhi – 110001,**
 - 2. Central Ground Water Authority,
Represented by the Member Secretary,
Having its office at 18/11, Jamnagar House,
Mansingh,
New Delhi – 110011,**
 - 3. Regional Director,
Central Ground Water Board,
Mid-Eastern Region (MER),,
6th & 7th Floor, Lok Nayak Jayaprakash Road,
Frazer, Dak Bunglow,
Patna – 800011,**
-Respondent(s)**

COUNSEL FOR APPELLANT(S):

Mr. Saunak Sengupta, Advocate and Mr. Pradipta Bose, Advocate

COUNSEL FOR RESPONDENT(S) :

Mr. Ashok Prasad, Advocate for R-1 to 3,

WITH

APPEAL No.10/2023/EZ

IN THE MATTER OF:

**1. Eastern Coalfield Limited,
Having its Registered Office at Sanctoria,
Post Office Dishergarh, Police Station Kulti,
District Burdwan acting through the Agent,
Barmuri OC, Dhanbad, Jharkhand,
Pin – 828205,**

**2. The Agent,
Office of the Agent Hariajam Colliery,
P.O. – Nirsa,
Dhanbad, Jharkhand,
Pin – 828205,**

....Appellant(s)

Versus

- 1. Union of India,
Service through the Secretary,
Ministry of Jal Shakti,
Department of Water Resources,
RD & GR having its office at 6th Floor,
Shram Shakti Bhawan,
New Delhi – 110001,**
- 2. Central Ground Water Authority,
Represented by the Member Secretary,
Having its office at 18/11, Jamnagar House,
Mansingh,
New Delhi – 110011,**
- 3. Regional Director,
Central Ground Water Board,
Mid-Eastern Region (MER),,
6th & 7th Floor, Lok Nayak Jayaprakash Road,
Frazer, Dak Bunglow,
Patna – 800011,**

....Respondent(s)

COUNSEL FOR APPELLANT(S):

Mr. Saunak Sengupta, Advocate and Mr. Pradipta Bose, Advocate

COUNSEL FOR RESPONDENT(S) :

Mr. Ashok Prasad, Advocate for R-1 to 3,

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

HON'BLE DR. ARUN KUMAR VERMA (EXPERT MEMBER)

Reserved On:-September 21st, 2023
Pronounce On:- September 27th, 2023

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|---|------------|
| 1. Whether the Judgment is allowed to be published on the net? | Yes |
| 2. Whether the Judgment is allowed to be published in the NGT Reporter? | Yes |
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JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

The Appeal Nos. 01/2023/EZ, 03/2023/EZ, 04/2023/EZ, 05/2023/EZ, 06/2023/EZ, 07/2023/EZ, 08/2023/EZ, 09/2023/EZ and 10/2023/EZ, involve identical controversy and, therefore, with the consent to the parties all the 9 (nine) Appeals are being taken-up together with Appeal No.01/2023/EZ as the leading case.

2. The Appellants in the present Appeal are seeking quashing of the order dated 28.11.2022 whereby an amount of Rs. 17,70,735/- (Rupees Seventeen Lakhs Seventy Thousand Seven Hundred Thirty Five only) (in Appeal No.01/2023/EZ) has been imposed by way of Environmental Compensation and Penalty.

3. The contention of the Appellants is that the Appellant No.1, Eastern Coalfield Limited, is a Government of India undertaking and they had applied for water dewatering @ 300 m³/day (ground water extraction) vide their application dated 28.06.2018 (Annexure-B, page no. 63 of the paper book) in which the mining seepage column was left blank. The 'No Objection Certificate' ('NOC' for short), was granted by the Central Ground Water Authority valid from 23.03.2021 upto 22.03.2023 (Annexure-R, page no. 131 of the paper book).

4. It is stated that in between there was e-mail correspondence between the Central Ground Water Authority and the Eastern Coalfield Limited, Appellants herein, copy of which has been filed at page no. 117 of the paper book dated 14.03.2021, wherein certain documents were required by the Central Ground Water Authority from the Appellants which was provided by the Appellants vide their e-mail dated 14.03.2021 including the desired seepage estimation details of their 13 mines. By an e-mail dated 15.03.2021 (Annexure-P, page no. 127 of the paper book), it was decided to process the application as their gross difference in the ground water dewatering quantum and the mine seepage submitted by the Project Proponent (ECL).

5. As noted above, the NOC was granted for water dewatering (ground water extraction) for 99.6 m³/day vide letter Annexure-R (page no. 131 of the paper book). Thereafter, a show cause notice was issued by the Central Ground Water Authority to the Colliery in question on 13.10.2021 (Annexure-T, page 135 of the paper book),

mentioning dewatering volume as 300 m³/day as per NOC application, dewatering volume as 99.6 m³/day as per NOC obtained and estimated dewatering volume (pre-monsoon/post monsoon) was shown as 280.8 m³/day. The impugned order though mentions that the water discharge (water extraction) to the Nirsa Colliery was given as 99.6 m³/day but on the request of the Colliery to charge them on the basis of the peak seepage capacity, the charge has been levied for the difference.

6. Mr. Ashok Prasad, learned Counsel appearing for the Respondents has drawn our attention to the letter of the Appellant dated 15.03.2021 (Annexure-O, page no. 126 of the paper book), and submits that the Appellant had himself requested that the NOCAP fee be charged on the basis of the maximum seepage the mine has ever reached highlighted in the table mentioned in the letter and, therefore, the impugned order has been passed accordingly. Learned Counsel submits that the impugned order has been passed on the basis of the own letter of the Appellant dated 15.03.2021.

7. Learned Senior Counsel appearing for the Appellants, on the other hand, submits that the charges for ground water extraction given in Table 5.4.A for Mining Projects, requires the Government to charge @ Rs. 2 for quantum of water extraction between 200 m³/day to less than 1,000 m³/day as per the said table given in the Notification of the Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, Central Ground Water Authority, dated 24.09.2020 (Annexure-A, page no.

34, at page 43 of the paper book) and in any case the Respondents could not have charged the Appellants for water extracted at any other rate, the letter of the Appellants dated 15.03.2021 notwithstanding.

8. Learned Counsel for the Appellants further submitted that as per the Ministry of Jal Shakti Notification dated 24.09.2020 in Chapter-IV under heading 'Mining Projects' rates of ground water abstraction for mining which are drawing ground water in safe, semi-critical and critical assessment units are given in Table 5.4A prescribing the rates of ground water extraction charges for mining (rupees per m³) which reads as under:-

S. No.	Category of area ↓ Ground water use ⇒	Quantum of ground water withdrawal			
		<200 m ³ /day	200 to<1000 m ³ /day	1000 to <5000 m ³ /day	5000 m ³ /day and above
1	Safe	1.00	2.00	2.50	3.00
2.	Semi-critical	2.00	2.50	3.00	4.00
3.	Critical	3.00	4.00	5.00	6.00

Table 5.4B prescribes the rates of ground water restoration charges for mining (rupees per m³) which reads as under:-

S. No.	Category of area ↓ Ground water use ⇒	Quantum of ground water withdrawal			
		<200 m ³ /day	200 to<1000 m ³ /day	1000 to <5000 m ³ /day	5000 m ³ /day and above
1.	Over-exploited	4.00	5.00	6.00	7.00

9. The submission of the learned Counsel for the Appellants is that the impugned order does not mention at what rate the Environmental Compensation has been charged and for want of particulars, the impugned order is, therefore, vague and not sustainable.

10. It is stated by the Appellants in its application dated 28.06.2018 (Annexure-B, page 63 of the paper book), that Appellant had applied for ground water extraction/water dewatering at 300.00 m³/day as mentioned in Item No.14 of its application and in Table No.9B (Annexure-C, page no.70 of the paper book) with regard to mine water discharge and its utilization, the average peak mine water pumping m³/day for Nirsa OC Patch is mentioned as 300.

11. It is stated that No Objection Certificate ('NOC' for short), was issued by the Central Ground Water Authority ('CGW Authority' for short), valid from 23.03.2021 to 22.03.2022 (Annexure-R, page no.131 of the paper book), @ 99.60 m³/day for dewatering i.e., 36354. m³/year. It is further stated that prior to that, the Appellant had addressed a letter dated 15.03.2021 (Annexure-O, page no.126 of the paper book), the CGW Authority mentioning therein that the peak seepage capacity that the mine in the last three years from underground (UG) is 99.6 m³/day and 36354 m³/year and also a request was made to charge NOCAP fee on the basis of maximum seepage the mine has ever reached.

12. It is stated that on 13.10.2021 (Annexure-T, page no.135 of the paper book), the CGW Authority issued a show cause notice to

the Appellants mentioning therein that a site inspection had been carried out and as per its Report it was found that initial quantum for which permission was sought was close to the actual dewatering requirement and was later manipulated to avoid/minimize ground water abstraction/restoration charges as given in the Table in the show cause notice which reads as under:-

<i>Name of Coal Mine</i>	<i>Dewatering Volume in Original NOC Application (m³/day)</i>	<i>Dewatering Volume for which NOC is obtained (m³/day)</i>	<i>Estimated Dewatering Volume (m³/day) (Pre-monsoon/Post-monsoon period)</i>
<i>Nirsa OCP</i>	<i>300</i>	<i>99.6</i>	<i>280.8</i>
			<i>0</i>

13. It is stated that the Appellants submitted its reply to the show cause notice on 26.10.2021 (page no.137 of the paper book), denying the allegations and it is stated that the seepage details of Nirsa OCP were provided vide letter dated 13.03.2021 which was calculated on the basis of Darcy's Law ($Q=KIA$) in which the cross-sectional area is considered for working face only. It was stated that vide letter dated 15.03.2021 the mine management had submitted the peak dewatering details i.e., 300 m³/day and mine seepage details i.e., 99.6m³/day for consideration and requested to charge on the basis of the seepage details i.e., 99.6 m³/day. It was also stated that details/data had been placed before the authority without any malafide intention and there was no intention to mislead or manipulate the same to avoid or minimize ground water abstraction/restoration charges. It was also stated in the reply that

during inspection by the team from Regional Director, CGW Board, MER, Patna, it was monsoon period and intensive pumping operations were being carried out to ensure safety of mine, machine and men.

14. The contention of the Appellants is that on 28.11.2022 (Annexure-Y, page no.180 of the paper book), the impugned order was passed, directing the Appellant to deposit a total amount of Rs. 17,70,735/- (Rupees Seventeen Lakhs Seventy Thousand Seven Hundred Thirty Five only) (in Appeal No.01/2023/EZ) by way of Environmental Compensation and Penalty. It is stated that on 29.12.2021 an order was passed whereby the Penalty of Rs.1 lakh was imposed against the Appellants in addition to Environmental Compensation of Rs. 16,70,735/- (Rupees Sixteen Lakhs Seventy Thousand Seven Hundred Thirty Five only), Total Rs. 17,70,735/- (Rupees Seventeen Lakhs Seventy Thousand Seven Hundred Thirty Five only).

15. The stand of the Central Ground Water Board, on the other hand, is that vide their letter dated 20.07.2021 (Annexure-3, page no.205 of the paper book), data was sought by the CGW Authority after inspection of mine and Site Inspection Report has been filed (page no.210 of the paper book), and Item No.2a thereof mentions the quantum of dewatering of ground water as 99.6 m³/day and under the head 'Compliance Status Observed' the **“quantum of dewatering withdrawn by the firm (Check Log Book)”** mentioned as 280.8 m³/day and the date of inspection is 07.07.2021.

16. The further stand of the CGW Authority is that the Appellant in its own letter dated 15.03.2021 (page no.126 of the paper book), had requested the authority to charge the NOCAP fee on the basis of maximum seepage the mine has ever reached as given in the Table of the letter.

17. Since the Inspection Report mentioned that the **“quantum of dewatering withdrawn by the firm (Check Log Book)”**, we directed the Respondent CGW to produce the Log Book, since the copy of the relevant extract of the Log Book had not been filed by the Department with its counter-affidavit to justify computation of Environmental Compensation and charging of Penalty.

18. The Central Ground Water Board has filed additional affidavit dated 28.08.2023 citing various judgments of the Hon'ble Supreme Court as well as of the National Green Tribunal. Along with this affidavit, data sought in tabular form – Nirsa Colliery has been filed as Annexure-I (page no.239 of the paper book), which gives the same figures as noted hereinabove, showing ground water extraction quantum found during site inspection in column 'D' as 280.8 quantum as per the report submitted by the firm in column 'C' as 300 and in the remarks it is mentioned that the ground water quantum as per the report submitted by the unit (column C) was used to assess the additional extraction and Environmental Compensation.

19. At page no.240 of the paper book, consolidated table of data for all the Appellants' Units which are also the Appellants in the

other connected Appeals including the Appeal No.1/2023/EZ has been given which reads as under:-

S. No.	Firm Name	GW quantum applied for (in NOC application) (m ³ /day)	GW quantum for which NOC was given (m ³ /day)	GW Quantum utilized (m ³ /day)		Amount in which the additional charge has been asked for (m ³ /day)	Amount of environmental compensation/ penalty charge Calculated from implementation of MoJS Guidelines (24.09.2020) to the date of show cause reply received from the unit
				Quantum as per Report submitted by the firm	GW extraction quantum found during site-inspection		
		A	B	C	D	(C-B)	
1.	Nirsa OCP	300	99.6	300	280.8	200.4	Rs. 17,70,735 (397 days)
2.	Khoodia UG	800	1.43	800	615.6	798.57	Rs.66,23,518 (389 days)
3.	Chapapur	1500	52.7	1500	585	1147.3	Rs.1,72,07,086 (394 days)
4.	Hariajam	1100	2.92	1100	900	1097.08	Rs.1,30,67,486 (394 days)
5.	Lakhimata	1250	1.46	1250	648	1248.54	Rs.1,49,70,111 (397 days)
6.	Kapasara	800	99.6	800	270	700.4	Rs.58,95,110 (394 days)
7.	Rajpura OCP	560	4.98	700	2700	695.02	Rs.58,36,000 (393 days)
8.	Barmuri OCP	800	6.64	400	1176.5	393.36	Rs.33,71,182 (396 days)
9.	Kumardhubi	1890	1.53	1475	1641.6	1473.47	Rs.1,75,16,415 (394 days)

20. There was a specific direction of this court in its order dated 05.09.2023 directing the affidavit giving details and methodology of assessment of extracted quantity to be filed by Mr. A. K. Sinha, Scientist-B, who has signed the Inspection Report dated 01.09.2021.

21. Accordingly, the Central Ground Water Board has filed further additional affidavit dated 19.09.2023 signed and sworn by Mr. Rajiv Ranjan Shukla, Regional Director, Central Ground Water Board, MER, Patna, and not by Mr. A.K. Sinha, in response to the directions of this Court to produce the Log Book and supported documents and in para 4 (i) thereof it is stated that 'inspection was

carried out by Shri Alok Kumar Sinha, Scientist-B and Shri S S Purty, Scientist-B. It is further stated that at the time of inspection, it was monsoon season and as a result, it was not possible to access the mine face, the fact which is recorded in letter dated 15.09.2021 from the then Regional Director, CGWB, MER, Patna, (Annexure-I), while forwarding the inspection report to CGWA, New Delhi, Furthermore, the firm could not make available the log book of the extraction, the fact should have been placed on record in 'Remarks' column of the inspection report, but inadvertently missed by the Committee. In this situation, indirect approach for estimation of seepage/ground water extraction/dewatering was adopted and the firm was asked to provide information about Pump Capacity, Pumping Hours etc. vide e-mail dated 15.07.2021 (Annexure-II) which was made available by the firm vide e-mail dated 05.08.2021 (Annexure-III) with covering letter dated 05.08.2021 (Annexure-IV). The extraction was calculated on the basis of the data/information provided as above and the same was indicated in the Inspection Report'.

22. What is noteworthy is that computation of Environmental Compensation has been made on the basis of the same data provided by the Appellants but the report itself mentions that computation was made on the basis of the Log Book. The said Log Book was not available before the authority as admitted by them in their affidavit and, therefore, an indirect approach for estimation of seepage/ground water extraction/dewatering was adopted. The Report also mentions that computation was arrived at by indirect estimation indicated in the Inspection Report on the basis of the

information provided by the firm about the Pump Capacity, Pumping Hours etc. and a conclusion has been drawn that M/s ECL (Appellants herein) had provided false information for obtaining NOC in order to evade paying actual abstraction charges.

23. We have heard the learned Counsel for the parties and perused the documents on record.

24. We find that the application seeking NOC (page no.70 of the paper book), submitted by the Appellants clearly mentions the average peak mine water pumping (m^3/day) for Nirsa OC Patch as '300' and excess mine water (m^3/day) as 'Nil'. The details of the other mines in the connected Appeals has also been given and which has been extracted hereinabove. The NOC, however, was not granted by the CGW Board as per the application form submitted by the Appellants.

25. Be that as it may, when the Inspection Report mentions that during inspection Log Book was examined and computation of excess dewatering computed, we wonder how the same could have been done when the Log Book was not available and what were the documents examined by the inspection team.

26. In this view of the matter, we find the impugned orders dated 28.11.2022 wholly without any foundation the same have absolutely no legs to stand.

27. We also find that the impugned order of 28.11.2022 does not give any methodology of computation as required by the Ministry of

Jal Shakti Notification dated 24.09.2020, therefore, the impugned order is wholly illegal and is liable to be set-aside.

28. In view of above, the Appeal Nos. 01/2023/EZ, 03/2023/EZ, 04/2023/EZ, 05/2023/EZ, 06/2023/EZ, 07/2023/EZ, 08/2023/EZ, 09/2023/EZ and 10/2023/EZ, are allowed and the impugned orders dated 28.11.2022 (in all the above Appeals) are set-aside.

29. The Central Ground Water Authority, however, may proceed afresh against the Appellants strictly in accordance with law.

30. I.As. if any, stand disposed of accordingly.

31. There shall be no order as to costs.

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B. AMIT STHALEKAR, JM

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DR. ARUN KUMAR VERMA, EM

Kolkata,
September 27th, 2023,
Appeal No.01/2023/EZ
Appeal No.03/2023/EZ
Appeal No.04/2023/EZ
Appeal No.05/2023/EZ
Appeal No.06/2023/EZ
Appeal No.07/2023/EZ
Appeal No.08/2023/EZ
Appeal No.09/2023/EZ
Appeal No.10/2023/EZ
AK