

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.84/2022/EZ
(I.A. No.08/2023/EZ)

In the matter of:

T.V. George
223, New Lawyers Chambers
Supreme Court of India,
New Delhi-110001

.....Applicant(s)

Versus

1. The Chairman, Railway Board, Ministry of Railway
A-256, Raisina Road,
Rajpath Area, Central Secretariat,
New Delhi-110001

2. Divisional Railway Manager,
Alipurduar, North East Frontier Railway,
Alipurduar, West Bengal-736123

**3. The Member Secretary,
West Bengal Pollution Control Board**
Paribesh Bhawan, 10A, Block-LA,
Sector-III, Bidhan Nagar,
Kolkata-700106

4. Additional Chief Secretary,
Department of Environment,
Govt. of West Bengal,
Prani Sampad Bhavan,
5th Floor, LB-2, Sector-III,
Salt Lake, Kolkata

.....Respondent(s)

Date of hearing: 10.02.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : Mr. T V George, in person (in Virtual Mode)

For Respondent(s) : Mr. Dipanjan Ghosh, Advocate for R-3,
Mr. Rajib Ray, Advocate for R-4,
Mr. Surendra Kumar, Advocate for CPCB

ORDER

1. Reply affidavit dated 03.01.2023 has been filed by the Respondent Nos.1 & 2; the same is taken on record.
2. Rejoinder affidavit dated 27.01.2023 has been filed by the Applicant; the same is taken on record.
3. An adjournment application has been filed by Mr. Ashok Prasad, learned Counsel for the Railways however since pleadings are complete, we are not inclined to adjourn this case.
4. The allegation in this Original Application is that the Railway Respondent Nos. 1 & 2, in 2003 proposed to construct a Railway Siding at Dalgaon Railway Station for loading of dolomite mined from nearby areas as also from Bhutan. Thereafter, several complaints were made with regard to environmental pollution and presence of poisonous air due to dolomite and a meeting was held on 15th December, 2003 in the West Bengal Pollution Control Board. Relevant extract of paras 5 & 6 of the said meeting expressed in its report dated 30th December, 2003 Annexure A/1 (page no. 25 of the paper book) read as under: -

“5. Considering the aforementioned scenario we are also in the opinion that present site of the proposed railway sliding at Birpara is not at all fit and an alternative site may be fixed up. But the railway authority had not yet submit any plan before the State Board for their proposed site.

6. In this connection it is worthwhile to mention here that State Board has already received number of complaints from different areas due to the development of the railway sliding in the heart of the locality. Therefore, we hope and trust that before taking any final decision railway authority will consult the West Bengal Pollution Control Board, local authority and district authority.”

5. It is stated that thereafter another letter dated 18.10.2013 (page no. 30 of the paper book), was issued by the Director (Planning), Ministry of Railway, Govt. of India, subject matter of which was 'Shifting of Dalgaon Railway Station Siding to another location to eliminate the problem of pollution in the area'. This letter proposes certain actions to be taken which are extracted herein below: -

"The only solution to above problems appears to be shifting to siding. A proposal from the concerned party has been received by NFR for shifting of the siding from Dalgaon and construction of a siding between Dalgaon and Munjal (adjacent to Dalgaon station) taking off from the dead end of line No.3 of Munjal station towards Dalgaon end.

As sufficient Railway land is not available at the proposal siding at Munjal station a Proposal is under preparation for developing Assisted Siding so that the railway siding portion will be in the Railway land and stacking and circulating area will be developed by the loading party duly acquired land nearby."

6. The contention of the Applicant is that either measures be undertaken to alleviate pollution at the Railway Siding of the Dalgaon Railway Station during loading of dolomite minerals in railway wagons or the Railways should suspend their operation during day time or to shift the Railway Siding in question to some other place as suggested in their own letter dated 18.10.2013.
7. The Tribunal at the stage of admission, constituted a Committee comprising of the following members: -
- i. Senior Scientist, Central Pollution Control Board, Regional Office Kolkata;
 - ii. Senior Scientist, West Bengal Pollution Control Board, and
 - iii. District Magistrate, Alipur Duar.

The West Bengal Pollution Control Board was directed to be Nodal Office for all logistic purposes.

8. The Committee was directed to inspect the Railway Siding of Dalgaon Railway Station in question and assess the level of air pollution and submit its report within four weeks stating clearly whether the air quality monitoring measures have been installed by the Railways at the said Railway Siding or not and suggest any other remedial measures for prevention of air pollution in the area. The Committee was also directed to consider whether shifting of the Railway Siding to some other site is a necessity.
9. Affidavit dated 28.09.2022 has been filed by the Respondent No.3, West Bengal Pollution Control Board, wherein it is stated that the Committee inspected the Railway Siding of Dalgaon Railway Station between 01.09.2022 and 02.09.2022 and found that no Ambient Air Quality Monitoring measures had been installed by the Railway Authority though the Railway Department had initiated the process regarding procurement of one Ambient Air Quality Monitoring Station (namely Smart Environment Monitoring System on real time). This monitoring system was to be installed at the Dalgaon Railway Siding to monitor the Air Quality status and was to be connected with the State Board server for data sharing. The Ambient Air Quality Monitoring was required to be carried out at three strategic locations. The Inspecting Committee further found that the Dalgaon Railway Siding was operating without a Consent to Operate (CTO) though they had applied for a Consent to Operate only on 16.06.2022. It is also stated that the Board had issued a letter to the Railway Authority on 07.07.2022 asking them to submit a Detailed Action Taken Report on the steps taken by them to combat air

pollution. Copy of the Inspection Report has been filed as Annexure-R-1 to the affidavit. The Observations and the Remarks of the Committee read as under: -

“Observation:

1. *During inspection on 1st -2nd September 2022, frequent light Rain Shower (Drizzling) was occurred and thus the storage of Dolomite, work place and adjacent area was already in wet/moist condition.*
2. *During inspection, loading & unloading activities were going on. It was observed that dolomite was entering into the siding through Tipplers (Dumper-Truck) which were covered with tarpaulins. The tipplers were further proceeding to water sprinkler section where after uncovering of the tarpaulin; dolomite was being moist using water. As informed, this will be helpful to minimize the fugitive emission caused during material unloading from tipplers. As per the data provided by NF Railway, 1.5 Rake (approx. avg.) is loaded on daily basis.*
3. *Further as per the demand & requirement, the dolomite is sent to concerned Industries/Steel Plants via Rail Transport. The Open type Wagons (Box N, BCN, BOST type) are being used for Dolomite Transportation. The dolomite is loaded into Wagons, using Hydra/Payloader. During inspection as observed, Railway Dept. has installed fixed type Mist Sprayer system along the Railway track. During loading of the material, Dry Fog system operated to minimize the fugitive emission. As observed the Fog/Mist was not sufficient to cover the Wagon area. However, there was no visible fugitive emission observed as the whole material was already in moist condition due to frequent raining.*
4. *It was informed by the NF Railway authorities that this water sprinkler system started operating from the day of inspection itself i.e., 01.09.2022. However, this was*

observed to be used only for wagon loading activities. No water sprinkling/dry fog system was found at unloading side. Thick layer of deposition of dolomite dust was observed on the haul road. Mobile water sprinkler tankers were being used to minimize the road dust only during plying of Dumpers/Vehicles.

- 5. At the southern side of the railway siding, habitat/hutment was observed within 50m from the working zone i.e. railway track. It was reported by the Railway authorities that these habitats are the Encroachment within the railway boundary limit. Further after the railway boundary, Tea Garden is situated. On the Northern side of the Railway siding habitat/commercial activities/temple/hospital etc. was observed approximately 250 m distance from the working zone.*
- 6. The inspecting team also interacted with few residents of adjacent area specifically the Habitat (Encroached area). As informed by them, the Railway Dept. is continuously using mobile type water sprinkler for road dust suppression in & around of the Siding area. However, few residents informed that Sprinkling is not sufficient and often caused fugitive emission in the vicinity. Further, it was understood that most of the Residents of Encroached area are directly/indirectly involved in the Loading/Unloading and Railway Siding related activities.*
- 7. On the Southern side of the Railway Siding, they also visited Dalgaon Tea Estate (Crow fly distance 3 km approx.) and interacted with labours. As informed by them, they had never observed any dust accumulation, emission around the Estate due to Dolomite loading/unloading activities at Dalgaon Railway siding.*
- 8. As observed, the Water tankers are continuously sprinkling the water on Haul Road and adjacent areas to*

suppress the dust. The excess water was flowing towards Hutment (Southern side) and finally going to Tea Estate land.

9. As per the direction of Hon'ble NGT, the team also visited the proposed Railway Siding site namely at Mujnai area. The Railway Dept. has 2 nos. of options (i.e. near Mujnai village or at Mujnai Railway Station) to develop the Railway Siding depending upon the availability of Land and necessary permissions of concerned Departments. The Mujnai area is located nearby the NH-317. The proposal is pending and under process with Railway Dept.

10. No Ambient Air Quality Monitoring measures installed by the Railway authority. However, the Railway Dept. has initiated the process regarding procurement of one no. of Ambient Air Quality Monitoring (AAQMO station, namely, Smart Environment Monitoring System on real time). As informed, the Bid regarding the procurement will be opened on 10th September 2022. This monitoring system will be installed at Dalgaon Railway siding to monitor the Air Quality status. This AAQM will be connected with WBPCB Server for data sharing.

As per the direction of Hon'ble NGT, to assess the air quality, Ambient Air Quality Monitoring was carried out at three strategic locations. Results are as following:

S No.	Location	PM ₁₀ (µg/m ³)	PM _{2.5} (µg/m ³)	SO ₂	NO ₂
1	L1:- House of Mr. Dinesh Kumar Barma, Railway Staff Qtr. No.E/54, south-East side of the railway siding at 100m distance from the working zone GPS location:26°42'48",89°8'19"	65.71	36.28	<4.0	16.67
2	L2: House of Mr. Narendra Giri, Railway Qtr. No.E/45, Northern side of the	80.70	31.70	5.10	19.40

	railway siding, at 100m distance from the working zone GPS location: 26°42'55", 89°8'12"				
3	L3:-Vacant railway Qtr. GPS location:26°42'55", 89°8'8", North-West side of the railway siding, at more than 150m distance from the working zone	59.20	16.80	4.40	15.0
	NAAQ Standard:- Gazette Notification No-B-29016/20/90/PCI-I, dated 18 th November, 2009	100	60	80	80

Status of Consent to Operate (CTO): The Dalgaon Railway Siding is operating without CTO. They have applied for it on 16.06.2022. WBPCB has issued a letter to the Railway authority on 07/07/2022 asking them to submit a detailed action taken report on the steps they took to combat air pollution. Also a direction was issued to them on 04/08/2022 to submit compliance report. The Railway Dept. should take necessary actions as per the direction of WBPCB & submit the Compliance report to WBPCB at the earliest to obtain CTO.

“Recommendations:

The Railway Dept. has initiated some activities for reduction of the Air Pollution in the locality. However following directions (a-i) are required to be complied.

- a. Dolomite laden Dumpers/ Tipplers from Bhutan to India (at Dalgaon Siding) are transported with Tarpaulin cover on it. However, to avoid any type of spillage/ fugitive emission during transportation, it is recommended that mechanically open/ closing type Dumpers may be used. Further, Concerned Dept./ Administration should ensure to stop the Overloading of the Dumpers, if any. A weighbridge and the CCTV may be installed at the entry of the Railway Siding, and the server of the weighbridge

and the CCTV may be connected to the concerned District Administration.

- b. The coverage of Dry Fog system was not sufficient to cover whole Wagon area. More nos. of High-capacity Dry fog system needs to install having larger coverage as per the Wagon size/ area. Water sprinkler/ dry fog system should be installed at the unloading side also.*
- c. The haul roads should be cleaned on regular basis using Mechanical Sweeping method. Further, Truck mounted 'Mist Cannon' may be used on regular interval and during Loading/ Unloading, plying of vehicles to suppress the dust emission in the vicinity.*
- d. Tyre washing facility should be developed at exit gate of the Yard/ Siding to avoid spillage/ dust accumulation on road side through Vehicles.*
- e. Internal roads inside the Yard/ Siding should be Paved/ concreted. This will be helpful during Mechanical Sweeping of the roads.*
- f. Wind breaking walls should be constructed (using Iron Sheets) upto a height of 25 ft. approx.. or as per requirements. This will restrict the view from Outside of the Yard and also to avoid re-suspension & carryover of dust to villages.*
- g. The procurement of 1 No. of Ambient Air Quality Monitoring (AAQM) equipment (namely Smart Environment Monitoring System on real time) is already in process. However, till completion of Procurement/ Installation process, Railway Dept. may be directed to submit the Ambient Air Quality report (carried out by NABL Accredited & Authorized laboratories) to WBPCB and other concerned dept. on fortnightly basis.*
- h. A garland drain should be constructed at the periphery of Dalgaon railway siding. Storm water collected from the*

garland drain should be treated in primary settling tank and may be reused for sprinkling purpose for suppression of Dolomite dust.

- i. Green belt should be developed around the Yard/ Siding facility.*

As mentioned in the Observation, there was frequent rain during Monitoring and thus may be the possible reasons for lower values of PM₁₀, PM_{2.5}. Inspection & Monitoring may again be carried out in post-Monsoon season (November/December) to assess the Air Quality more accurately. Also the compliances to the directions as recommended by the Committee constituted by the Hon'ble NGT may also be verified during post-Monsoon inspection. The Committee may be in a position then only to comment on necessity to shift the existing location."

- 10. The West Bengal Pollution Control Board was also directed to file a fresh affidavit bringing on record the air quality report of post monsoon and also compute Environmental Compensation for environmental violations.
- 11. The West Bengal Pollution Control Board has filed affidavit dated 05.12.2022. Along with this affidavit, an Inspection Report of inspection carried out on 02.11.2022 and 03.11.2022 has been filed which reads as under: -

"INSPECTION REPORT

.....XXXX.....XXX.....XXX.....XXX.....

Observation:

During inspection on 02/11/2022 to 03/11/2022, it was a bright sunny day. The weather was dry.

1. *Loading & unloading activities were going on. It was observed that dolomite loaded Tipplers (Dumper-Trucks) covered with tarpaulins were entering into the siding. The tipplers were further proceeding to Water sprinkling section where after uncovering of the tarpaulin; dolomite was being moist using water to minimize dust during unloading from tipplers. Then the dolomite is unloaded from tipplers & further loaded into Wagons, using Hydra/Payloader.*
2. *During inspection as observed, Railway dept has installed fixed type Mist Sprayer system along the Railway track. During loading of the material, Dry Fog system was operated to minimize the fugitive emission. However, this was observed to be used only for wagon loading activities. No water sprinkling/dry fog system was found at unloading side. Thick layer of deposition of dolomite dust was observed on the haul road. Mobile water sprinkler tankers were being used to minimize the road dust only during plying of Dumpers/Vehicles. Similar arrangements were observed during last visit of the NGT committee member on 01.09.2022 to 02.09.2022. No change or up-gradation observed here.*
3. *No Ambient Air Quality Monitoring measures installed by the Railway authority yet. However, the Railway Dept. has informed that 1 No. of Ambient Air Quality Monitoring (AAQM) equipment (namely Smart Environment Monitoring System on real time) was under final stage of procurement & the same will be installed within next 7 days.*

As per the direction of Hon'ble NGT, to assess the air quality, Ambient Air Quality Monitoring was carried out at three strategic locations as selected by the Committee constituted by the Hon'ble NGT. Results are as following:

S. No.	Location	PM₁₀	PM_{2.5}	SO₂	NO₂
1	L1:-House of Mr. Dinesh Kumar Barma, Railway Staff Qtr No. E/54, South-East side of the railway siding, at 100m distance from the working zone GPS location: 26 °42', 89 ° 8'19"	109.4	58.3	5.2	19.1
2	L2:- House of Narendra Giri, Railway Qtr No. E/45 Northern side of the railway siding, at 100m distance from the working zone GPS location: 26°42' 54",89 °8'12"	37.87	11.24	16.89	30.58
3	L3:-Vacant railway Qtr GPS Location:26°42'55",89°8'8, North-West side of the railway siding, at more than 150m distance from the working zone	19.26	8.74	15.16	26.95
	NAAQS Standard: Gazette Notification No-B-29016/20/90/PCI-I, dated 18th November, 2009	100	60	80	80

4. From the results it is evident that PM₁₀ limit of Location-1 is higher than the standard limit. Also PM_{2.5} is almost touching the standard limit. Location-1 is situated at the unloading side where no water sprinkling/dry fog system was provided."

12. The Rejoinder affidavit dated 04.11.2022 has been filed by the Applicant, stating therein that in pursuance to the letter of the West

Bengal Pollution Control Board for site relocation, the additional land requirement has been assessed through joint field survey with the representative of the Block Land & Land Reforms Officer, Madarihat. The land required to be acquisitioned consists of Government ceased land 16.43 acres, Raiyati land 0.59 acre and TG land 1.13 acre under Mouza illegible Sheet No.2, JL No.41, RS No.115 and Mouza uttar Sishubari Sheet No.182, JL No.39, RS No.111. The total area of the land required is approx. 18.15 acres.

13. Annexure-R/1 to this affidavit is a letter written by the Divisional Engineer/III, Aliurduar Junction/NF Railway, to the District Magistrate, Alipurduar. The relevant extracts of the letter read as under: -

“.....The Approach of Dalgaon station is congested due to traffic. The station approach is further congested by the movement of dolomite carrying trucks which has increased in last two years. Local people have raised their concern about the deteriorating environment on account of flying dolomite dust. They have demanded shifting of the Dolomite loading point from Dalgaon to other locations.

Considering the environmental problem faced by the public and congestion near the station approach, Railway is planning to reduce dolomite loading at Dalgaon by constructing a new loading siding between Dalgaon and Mujnai station.

Railway has surveyed the area. The extent of land required to develop the siding lines along with circulating area is shown in the enclosed sketch plan. Siding lines and circulating area is not possible to be accommodated within Railway Land, therefore, extra land is required beyond Railway land towards NH side. The additional land requirement has also been assessed through joint field survey with representative of BL 7 LRO/Madarihat (Report attached for ready reference). The extra land required to be

acquisitioned consists of Government ceased land-16.43 acre, Raiyat land-0.59 acre and T.G land-1.13 acre under Mouza Damachi Sheet No.2, J.L No.41, RS No.115 and mouza uttar Sishubari Sheet No.1&2, J.L No.39, R.S No.111. The total area of the land required is approx. 18.15 acres.

In view of the above, it is requested to arrange acquisition of the above land in favour of railways.”

14. Affidavit dated 16.11.2022 has been filed by the Respondent No.2, Divisional Railway Manager, Alipurduar Junction/NF Railway, stating therein that as per earlier decision to shift the Railway Siding to a non-residential area i.e. to Mujnai the Railways had proposed to the District Administration of Alipurduar vide their letter dated 08.06.2015 for acquisition of 10.81 acres of land in favour of NF Railway at Mujnai Railway Station for construction and establishment of alternative siding. However, the area of the said land was found to have been reduced with minimum land requirement and the District Administration, therefore, informed the Railways vide their letter dated 18.08.2017 that the said land cannot be transferred to the Railway Department. Thereafter, correspondence continued between the Railways and the District Administration for allotment of alternative land and one more letter was sent by the Divisional Engineer/III, Alipurduar Junction, NF Railway dated 09.06.2022 to the Land Acquisition Officer, Alipurduar, regarding estimate of the land surveyed in between Mujnai-Dalgaon Railway Station. Thereafter, there was again correspondence between the Divisional Engineer/III, Alipurduar, NF Railway and the District Magistrate, Alipurduar dated 01.09.2022 for removal of encroachments from Railway land.

15. One more affidavit also dated 16.11.2022 has been filed by the Respondent Nos.1 & 2, Divisional Railway Manager, Alipurduar Junction, NF Railway, wherein in paragraph-6 of the affidavit, the directions of the Tribunal in its order dated 29.09.2022 and compliance and execution of the directions have been outlined which read as under: -

Sl. No.	Directions of Hon'ble Tribunal passed in order dated 29.09.2022 in OA. No.84 of 2022	Compliance and execution of the directions by railway
<i>a</i>	<i>Dolomite laden Dumpers/Tippers from Bhutan to India (at Dalgaon Siding) are transported with Tarpaulin cover on it. However, to avoid any type of spillage/fugitive emission during transportation, it is recommended that mechanically open/closing type Dumpers may be used. Further, Concerned Dept./Administration should ensure to stop the Overloading of the Dumpers, if any. A weigh bridge and the CCTV may be installed at the entry of the Railway siding, and the server of the weigh bridge and the CCTV may be connected to the concerned District Administration.</i>	<i>Trucks carrying dolomite are being covered by Tarpaulin. These are also being carried in wet condition to avoid any type of spillage/fugitive emission during transportation. CCTV camera has already been installed. Recording of which could be seen by concerned authority. Weight particulars of the loaded trucks are available with M/S BCPL.</i>
<i>b</i>	<i>The coverage of Dry Fog system was not sufficient to cover whole Wagon area. More Nos. of High-capacity Dry Fog system needs to install having larger coverage as</i>	<i>The whole area of loading line has been covered with water mist sprinkler system. To enhance</i>

	<i>per the wagon size/area. Water sprinkler/dry fog system should be installed at the unloading side also.</i>	<i>the coverage of the spray areas over the loading zone, more nozzles are being installed for effective suppression of dust particles. It will be made functional by Feb'23. Approximate Cost of the work is Rs.1,00,00,000/-.</i>
<i>c</i>	<i>The haul roads should be cleaned on regular basis using Mechanical Sweeping method. Further, Truck mounted 'Mist Cannon' may be used on regular interval and during loading/unloading, plying of vehicles to suppress the dust emission on the vicinity.</i>	<i>Beside water being sprayed over the haul road and the whole siding regularly by the BCPL, Truck mounted water Mist cannon will also be provided by them. BCPL has assured to provide the same by Jan'23.</i>
<i>d</i>	<i>Tyre washing facility should be developed at exit gate of the Yard/Siding to avoid spillage/dust accumulation on road side through vehicles.</i>	<i>Tyre washing facility to be provided by M/S BCPL and they have assured to provide it within Dec'22.</i>
<i>e</i>	<i>Internal roads inside the Yard/Siding should be paved/concreted. This will be helpful during Mechanical Sweeping of the roads.</i>	<i>The work of construction of road is in progress, 250m road from Level Crossing has been constructed, the balance will be proposed for sanction</i>

		<i>in Railway Works Programme. It will be completed in 2023. Approximate cost of the road is Rs.65,00,000/-.</i>
<i>f</i>	<i>Wind breaking walls should be constructed (using Iron Sheets) up to a height of 25 ft. approx. or as per requirements. This will restrict the view from Outside of the Yard and also to avoid re-suspension & carryover of dust to villages.</i>	<i>Construction of 25 Ft. wall along the boundary of the siding with iron sheet involves an expenditure of approx. Rs.2.5 Cr, which will be proposed in the works programme to NFR/HQ. Alternatively, Railway is searching agencies who can execute the work through commercial endorsement business policy.</i>

16. In this affidavit, it is also stated that the Dalgaon Railway Siding had been established before the year 1976 and, at that time, there were no rules prescribed for obtaining Consent to Operate (CTO) for operating the Railway Siding.
17. One more affidavit dated 03.01.2023 has been filed by the Respondent Nos.1 & 2, Divisional Railway Manager, Alipurduar Junction, NF Railway, stating therein that the Railways has already applied for Consent to Operate (CTO) and in any case the area in question has not been declared to be “Pollution Control Area” by the Station Pollution Control Board and, therefore, the concerned

Railway cannot be held responsible for violation of environmental standards which may lead to imposition of penalty upon the violator. The Railways has also sought to put the blame on the plying of trucks on unpaved congested roads as well as haphazard expansion of Birpara Township towards the vicinity of the Railway lines. However, it has been reiterated that the District Administration has been requested for acquisition of suitable land for shifting the Dalgaon Railway Siding to some other alternative sites.

18. The Applicant has also filed Rejoinder Affidavit dated 27.01.2023 reiterating the contents of the Original Application as well as his earlier affidavits.
19. From the documents on record and the Report of the Committee constituted by the Tribunal, there is absolutely no doubt that the Railways, is in violation of the environmental laws. There is no adequate Ambient Air Quality Monitoring Station. No water sprinkling/dry fog system was found at the time of inspection. There was thick layer of deposition of dolomite dust on the haul road, though mobile water sprinkler tankers were being used to minimize the road dust during the plying of Dumpers/Vehicles. The PM₁₀, PM_{2.5} levels were also found to be beyond the standards prescribed in the NAAQS standard dated 18.11.2009. The Railway Siding has been in operation since 1976, however, the Environment (Protection) Act was promulgated in 1986 and, therefore, the Railways cannot take the plea that the area was not notified as "Pollution Control Area" to escape its liability to pay Environmental Compensation on the principle of "Polluter Pays". The Railway Siding in question was clearly in violation of the environmental regimen enforced through the Environment (Protection) Act, 1986. The presence of

environmental pollution and poisonous air due to dolomite was pointed out to the Project Proponent as far back as 15.12.2003 and it was also suggested to them that they should shift to an alternative site but except for letter correspondence very little progress has been made in this regard. Though acquisition of land and the proceedings involved therein do take sometime but that does not absolve the Project Proponent from observing, maintaining and strictly following the environmental regimen under the Environment (Protection) Act, 1986 and the Rules framed thereunder.

20. This Tribunal by its order dated 29.09.2022 had directed the West Bengal Pollution Control Board to compute Environmental Compensation for environmental violations but we find that though affidavit dated 05.12.2022 has been filed by the West Bengal Pollution Control Board but Environmental Compensation has not been computed. This is a serious lapse on the part of the Pollution Control Board as a regulatory authority in spite of the clear directions of the Tribunal.
21. We, therefore, dispose of this Original Application with a direction to the Respondent No.3, West Bengal Pollution Control Board, to compute Environmental Compensation against the Project Proponent with due notice and opportunity of being heard on the quantum determined. Affidavit of compliance shall be filed before the Registrar, National Green Tribunal, Eastern Zone Bench, Kolkata, by 31.03.2023. Needless to say, if the Project Proponent fails to deposit the Environmental Compensation proceedings for recovery of the same shall be initiated as per law.
22. With the aforesaid directions, the Original Application No.84/2022/EZ is disposed of.

23. In view of the above, the I.A. No.08/2023/EZ also stands disposed of.
24. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Prof. A. Senthil Vel, EM

February 10, 2023
Original Application No.84/2022/EZ
(I.A. No.08/2023/EZ)
MN