

Item No.07

Court No.1

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

Original Application No.84/2022/EZ

T. V. George

Applicant(s)

Versus

The Chairman, Railway Board,
Ministry of Railways & Ors.

Respondent(s)

Date of hearing: 29.09.2022

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

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

For Respondent(s) : Mr. Rajib Ray, Advocate for State of W.B. (in Virtual Mode)
Mr. Dipanjan Ghosh, Advocate for R-3,
Mr. Ashok Prasad, Advocate Ministry of Railways,
Mr. Surendra Kumar, Advocate for CPCB,

ORDER

1. Mr. T.V. George, the Applicant in person, is present (in Virtual Mode).
2. Affidavit dated 28.09.2022 has been filed on behalf of the Respondent No.3, West Bengal Pollution Control Board; the same is taken on record.
3. Along with the affidavit, an Inspection Report of an inspection carried out on 1st - 2nd September, 2022, by the Committee constituted by the Tribunal has been filed. The Observation and Recommendations of the Report 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, them 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 (AAQM0 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 railway siding, at 100m distance from the working zone GPS location: 26°42'55", 89°8'12"	80.70	31.70	5.10	19.40
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 PM_{10} , $PM_{2.5}$. 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."

- 4. In the Inspection Report, it is stated that no Ambient Air Quality Monitoring measures have been installed by the Railway Authority. It is also stated that the air quality reports have been done during the monsoon period which as a consequence is showing a lower figure. It is further stated that Consent to Operate has not been obtained by the Railways and they are operating without a valid Consent to Operate.
- 5. We, therefore, direct the West Bengal Pollution Control Board, Respondent No.3, to file a fresh affidavit bringing on record the air quality report of post monsoon and also compute Environmental Compensation for environmental violations.
- 6. Mr. T. V. George, the Applicant in person, states that he received the copy of the affidavit dated 28.09.2022 only yesterday and

prays for and is granted two weeks time for filing rejoinder affidavit, if any, to the same.

7. We find that the Railway Respondents have not filed their counter-affidavit till date.
8. Mr. Ashok Prasad, learned Counsel appearing for the Railway Respondents, prays for and is granted two weeks time for filing counter-affidavit as well as reply, if any, to the affidavit dated 28.09.2022 filed by the Respondent No.3 on behalf of the said Respondents.
9. Mr. Rajib Ray, learned Counsel appearing (in Virtual Mode) for the State of West Bengal, states that the State Respondents do not want to file any separate affidavit and will adopt the averments of the affidavit filed by the Respondent No.3, West Bengal Pollution Control Board.
10. **List on 24.11.2022.**

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B. Amit Sthalekar, JM

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Saibal Dasgupta, EM

September 29, 2022,
Original Application No.84/2022/EZ
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