

**BEFORE THE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONAL BENCH, BHOPAL**

**Original Application No. 342/2014 (CZ)**

**CORAM:**

**Hon'ble Mr. Justice Dalip Singh  
(Judicial Member)**

**Hon'ble Dr. Satyawan Singh Garbyal  
(Expert Member)**

**BETWEEN:**

1. Upendra Prasad Pandey  
S/o Late Sadhu Ram Pandey  
Aged 51 Years, R/o Village Harrai (East),  
P.O -Waidhan, District – Singrauli (M.P)

**.....Applicant**

**Versus**

1. Union of India  
Through its Secretary,  
Ministry of Environment and Forests,  
Parayavaran Bhawan, CGO Complex,  
Lodhi Road, New Delhi
2. Central Pollution Control Board  
Through its Chairman,  
Parivesh Bhawan, CBD-cum office Complex  
East Arjun Nagar, Delhi.
3. M.P. Pollution Control Board  
Through its Chairman,  
Parayavaran Parisar, E-5 Arera Colony,  
Bhopal (M.P)
4. The Chief Conservator of Forest(Central)  
Ministry of Environment & Forests,  
Regional Office, Link Road No. 3,  
E-5Arera Colony,  
Bhopal (M.P)
5. State Department of Environment  
Through its Secretary  
Government of M.P, Bhopal (M.P.)
6. The Collector  
District Singrauli (M.P.)

7. Water Resource Department,  
Through its Executive Engineer,  
Region No.2, Singrauli, (M.P.)
8. Sarpanch,  
Gram Panchayat Orgari  
District Singrauli (M.P)
9. M/s Hindalco Industries Ltd  
Through its Managing Director,  
Century Bhawan, Dr. Annie Besant Road,  
Mumbai
10. Hindalco Mahan Aluminium Project  
Through its Vice Chairman,  
(Civil) & infrastructures, Bargawan,  
District Singrauli M.P.

.....Respondents

<b><u>Counsel for Applicant</u></b> :	<b>Mr. Ashish Pandey, Adv.</b>
<b><u>Counsel for Respondent No.1:</u></b>	<b>Mr. Om S.Shrivastav, Adv.</b>
<b><u>Counsel for Respondent No.2 :</u></b>	<b>Mr. Rohit Sharma, Adv. for Mr. Sandeep Singh, Adv.</b>
<b><u>Counsel for Respondent No.3 :</u></b>	<b>Ms. Parul Bhadoria, Adv. for Mr. Purushaindra Kaura, Adv.</b>
<b><u>Counsel for Respondent/State:</u></b>	<b>Mr. Sachin K.Verma, Adv.</b>
<b><u>Counsel for Respondent No. 8:</u></b>	<b>Mr.Dharamvir Sharma, Adv.</b>
<b><u>Counsel for Respondent No. 9 &amp;10 :</u></b>	<b>Mr. Syed Sahid H.Rizvi, Adv.</b>

## **J U D G E M E N T**

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**Dated : September 5<sup>th</sup>, 2016**

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- 1) Whether the judgement is allowed to be published on the internet  
----- yes
- 2) Whether the Judgement is to be published in the All India NGT  
Report ----- yes

**Dr. Satyawan Singh Garbyal,**

1. The Original Application was filed on 13.05.2014 initially before the Hon'ble High Court of Madhya Pradesh Principal Seat at Jabalpur by the Applicant / Upendra Prasad Vs. Union of India & Others as Writ Petition No. 7732/2014 (PIL). Subsequently, the Learned Counsel for the Applicant filed I.A. No. 10373/2014 for withdrawal of the petition with liberty to file before the National Green Tribunal. Consequently on the 19.08.2014 the said writ petition was dismissed as withdrawn by the Hon'ble High Court of Madhya Pradesh Principal Seat at Jabalpur with liberty to approach before the appropriate forum.
2. This Original Application No. 342/2014 was then filed on 17.12.2014 in this Tribunal by the Applicant alleging that the location of the ash pond of the Respondent No. 10 / Hindalco Industry Ltd. had been altered from the place for which public hearing was held and it was constructed at a new site without complying with the requirement of the guidelines and notification issued by the MoEF &CC, Govt. of India. The Applicant had prayed to issue directions to the Respondents to immediately desist from disposing of fly ash slurry into proposed irrigation dam which was constructed later on illegally as fly ash pond in Village Orgari thereby causing air and water pollution. They had also prayed to issue appropriate directions to the Respondents to immediately shift their fly ash pond at its suitable site at Village Gangi as per layout plan prepared in EIA report carried out for company

3. Integrated Aluminum Smelter Complex along with coal based Captive Power Plant of HINDALO at Village Orgari, Bargawan District Sidhi (M.P.) was granted EC by the MoEF &CC, Govt. of India on 02.09.2009 with specific conditions *inter alia* :

xvii. *Proper utilization of fly ash shall be ensured as per fly ash Notification, 1999 and subsequent amendment in 2003. All the fly ash generated shall be properly stored in ash storage pond and provided to cement and brick manufacturers for further utilization.*

xix. *Green belt shall be developed in 500 ha. (33%) out of total 1500 ha. area to mitigate the impact of fugitive emissions as per the CPCB guidelines.*

4. Since the plant was granted EC on 02.01.2009 and the Original Application was filed in 2014 i.e. after more than five years the Original Application is time barred. At this stage it would not be proper to direct the Respondent/Hindalco Industry Ltd. to shift fly ash dyke from the existing site to a new location. In the draft EIA report the ash dyke was to be constructed at Majhgaon and public hearing was also accordingly held. Subsequently, the ash dyke was constructed at Village Orgari. It was submitted by the Respondent No. 10 & 11 that the location of the ash dyke was altered from Majhgaon to Orgari close to the plant site in accordance with the revised plan approved by the MoEF &CC, Govt. of India in 2009. The change of location was at the instance of MoEF &CC to reduce the project area from 2000 hectares to 1500 hectares.

5. It had also been alleged by the Applicant that Respondent / Hindalco Industry Ltd. was disposing of fly ash in the rivulet and the water body near Village Gidher and also at Orgari in the site which were not approved. The Respondent / Hindalco Industry Ltd. have, however, submitted that no fly ash was disposed of in the open and these are carried away through close tankers and trucks to various industries for utilization.
6. In view of the above, it may not be appropriate now to direct the Respondents / Hindalco Industry Ltd. to change the location of the ash dyke to a new site. What is to be seen is whether the various conditions of the EC are being complied with by the Respondents and also on following precautionary principle to what extent the pollution caused by the operations of the industries can be mitigated. Moreover, what is also required to be seen is to what extent the various developmental activities are undertaken by the Respondents / Hindalco Industry Ltd. for the benefit of the villagers affected.
7. As directed by this Tribunal the MPPCB had also inspected the site of the industry and their various operations. The MPPCB in their inspection report had brought out that the ash disposal site at Village Gidher is approximately 200 meters from the Village school which is now abandoned and now shifted to new rehabilitation site at Majhgaon.
8. The Respondent / Hindalco Industry Ltd. had agreed to construct the school at any site provided by the Administration. Since the District Administration was not



able to provide land for the construction of a new school for the children of Village Orgari, the Respondent / Hindalco Industry Ltd. has now provided sufficient land for the construction of the new school within the plant site which is at a distance of 600 meters from the ash dyke. As per the submission made by the Respondent No. 10 on 22.08.2016 in terms of our directions dtd. 15.09.2015 & 03.11.2015, construction of new school with 05 rooms for classes, 01 office room and 02 separate toilets for boys and girls have been completed. They have now written to the authorities on 12.08.2016 to take over the school building. This has also been confirmed by the Learned Standing Counsel for the State in his submission made on 22.08.2016. This new school is in conformity with the guidelines of the 'Sarvashiksha Abhiyan' as per which the schools are to be located within 1 kilometer of green habitated area. The Respondents / Hindalco Industry Ltd. have also constructed additional rooms and *varandas* in the existing government school at Village Bargawan as directed by this Tribunal. The Respondents / Hindalco Industry Ltd. have also undertaken 300 meters long and 300 wide plantation inside the boundary wall and have planted 43,870 saplings covering 18.01 hectares. They have also planted 21,216 sapling over 5.47 hectares of area along the boundary wall and around ash dyke. In addition 43,000 saplings have also been planted over 17.02 hectares on the site "A, B & C" as marked on the map towards the boundary

of the plant complex. Total 40.06 hectares of the ash dyke area has been planted with trees.

9. As per the EC conditions 500 hectares of green belt was to be developed which is the 33% of the total plant area of 1500 hectares. However, the area actually acquired by the Project Proponent was 1256 hectares, therefore, the green belt commitment on the part of the Project Proponent is only 415 hectares being 33% of the plant area of 1256 hectares. As per the direction of this Tribunal Respondents / Hindalco Industry Ltd. was required to carry out plantation over 25% i.e. 104 hectares within this financial year. They have now submitted that they have already completed 189 hectares by planting local indigenous trees species.
10. It has also been submitted that the plant is disposing of the entire fly ash in the dry form to the nearest cement companies. The bottom ash which constitutes 20% of the total fly ash generated is pumped into Low Density Poly Ethylene ash dyke within the plant area so as to prevent the contamination of the soil or the ground water in any manner.
11. The Learned Counsel for the State has also submitted on 22.08.2016 that the entire compensation amount as per the assessment made amounting to Rs. 49,95,789/- has been paid to the farmers of the Village Gidher and Orgari through A/c Payee Cheques.
12. The Learned Counsel for the Respondent No. 10 & 11 has submitted that the Hindalco Industry Ltd. has set up online air, water & process stacks monitoring station for real time

online measurement and the data collected is transmitted directly to the CPCB and MPPCB.

13. In view of the above, no further directions are required to be issued except that the remaining green belt of 226 hectares may be completed by the next monsoon season i.e. 2017 and the compliance of the same may be reported by the Respondents / Hindalco Industry Ltd. to the CPCB.
14. **Accordingly, the Original Application No. 342/2014 along with pending M.As stand disposed of. There is no order as to costs.**

**(Mr. Justice Dalip Singh)**  
**Judicial Member**

**(Dr. S.S. Garbyal)**  
**Expert Member**

Bhopal:

**September 5<sup>th</sup>, 2016**

**NGT**