

**BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 79(T<sub>HC</sub>) of 2013**

**And**

**M.A No. 498 of 2013 in**

**Original Application No. 80(T<sub>HC</sub>) of 2013**

**Bengal Brick Field Owners Association &Anr.**

**Vs.**

**West Bengal Pollution Control Board &Ors.**

**And**

**Nadia District Brick Manufacturers Association &Anr.**

**Vs.**

**West Bengal Pollution Control Board &Ors.**

**CORAM :** HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE DR. D. K. AGRAWAL, EXPERT MEMBER  
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER  
HON'BLE DR. R. C. TREVEDI, EXPERT MEMBER

**Present:** **Applicant** (in original application no. 79(T<sub>HC</sub>) of 2013): **Mr. Huzefa Ahmadi, Sr. Advocate, Mr. Jayant Mohan and Mr. Ninad Laud, Advocates**  
**Applicant** (in original application no. 80(T<sub>HC</sub>) of 2013): **Mr. Shubhayu Roy, Advocate and Mr. S. Dutta, Adv.**  
**Respondent No. 1 to 4:** **Ms. Asha Nayar Basu and Mr. Amit Agrawal, Advocate**  
**Respondent No. 6:** **Ms. P. B. Singh, Advocate**  
**Respondent No. 7:** **Mr. Bikas Kar Gupta, Advocate**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item Nos. 7&amp;8 December 3, 2013</b>	<p>In furtherance to our previous Order an Affidavit dated 30<sup>th</sup> November, 2013 has been filed on behalf of the Member Secretary, West Bengal Pollution Control Board. We regret to note that the Affidavit is as vague as the stand already taken by the State before us inasmuch as it states that the effects of smoke from kilns operating at a distance of 1.6 km beyond the fruit bearing season has not been mentioned in the Expert Report and the Committee appointed by this Tribunal except mentioning presence of ash particles on mango leaves had not made any comments in that regard or as regards the effect of these ash particles on fruit bearing. This Affidavit concludes with a statement that taking a decision in such a matter needs specialized knowledge in horticulture and effects of emissions and therefore, the Board prefers to rely on the recommendations of expert bodies which were upheld by the Court. This does not meet the requirement of the present case.</p> <p>Our attention is invited to paragraph 7.2.2 of the Report of the Technical Committee appointed by us vide our Order dated 27<sup>th</sup> May, 2013 we reproduce the</p>

contents of the said paragraph for the purpose of clarity.

*“The main recommendations of the Technical Committee constituted by WBPCB was that – ‘All the brick kilns those are located nearby the mango orchards should modify / upgrade their kiln into High Draft type kiln with proper air pollution control system ( gravitational settling chamber and wet scrubber with lime water treatment) for preventing the ‘Black Tip’ disease and neurosis in mango’. The views of this preventing the ‘Black Tip’ disease and neurosis in mango’. The view of this Technical Committee constituted by the National Green Tribunal on the above recommendation of the Technical Committee constituted by WBPCB are as follows:*

*The present minimum national standards for brick kilns prescribe installation of stack of stipulated height as the basic device to effect dispersion of pollutants at a certain minimum height so that their impact gets dispersed and minimized. The additional pollution control device (wet scrubber with lime water treatment), which was proposed by brick kiln associations and supported by the Technical Committee constituted by WBPCB, even though technically acceptable, is operationally cumbersome, and therefore, not a reliable system in rural locations for enforcement agencies.*

*The basic implied assertion of the brick kiln associations is that their proposal to voluntarily install some additional emission control system not required by the prescribed standards be accepted. This Technical committee is of the opinion that the additional pollution Control system cannot be a substitute of safe sitting requirements.*

*The problem of adverse effect on mango orchards due to brick kiln occurred in West Bengal because, unlike in other mango growing states such as Uttar Pradesh, there have been no sitting guidelines for brick kilns in West Bengal, even till today. The ban on operation of brick kiln nears*

*mango orchards during mango season, Feb to May, imposed by the Judgment dated 12th October, 2001 of Hon'ble High Court, Calcutta has helped addressing and minimizing the problem of adverse effect on mango orchards closure to brick kiln. Therefore, in absence of sitting criteria the ban on operation of brick kiln near mango orchards is desirable.*

*West Bengal Government/ State Board may prepare exclusive list of brick kilns covered by Hon'ble High Court Judgment dated 12th October 2001 and those brick kilns which are not covered by the Judgment i.e. located at safe distance from mango orchards, which would be useful in effective enforcement of the Judgments.”*

These observations in the Report adds more queries than providing resolution of it.

Compelled with the circumstances of the present case, we direct the Member Secretary of the West Bengal Pollution Control Board to be present before the Tribunal on 05<sup>th</sup> December, 2013 and answer the following query without ambiguity:-

1. Whether the emissions from the brick kilns particularly ash, cause any temporary or permanent damage to the mango flowers, leaves and generally the trees, if so what is its effect, on the mango plant and generally its physiology?
2. How the technology for pollution control referred to in paragraph 7.2.2 of this said Report is operationally cumbersome and therefore not a reliable system in rural locations for enforcement agencies?

Liberty is granted to the Member Secretary of the West Bengal Pollution Control Board to consult the Department of Horticulture or any other concerned Expert/s in the field for answering these queries.

List on 05<sup>th</sup> December, 2013 at the end of the Board.

.....,CP  
(Swatanter Kumar)

.....,JM  
(U.D. Salvi)

.....,EM  
(Dr. D.K. Agrawal)

.....,EM  
(B.S. Sajwan)

.....,EM  
(Dr. R.C. Trivedi)

