

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

**Original Application No. 31/2015 (CZ)**

**CORAM:**

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

**Hon'ble Dr. Devendra Kumar Agrawal  
(Expert Member)**

**BETWEEN:**

1. Jasaram,  
S/o Shri Hemaram,  
Aged 75 Years,  
Village Nimbol, Tehsil Jaitaran,  
District Pali (Rajasthan)
2. Narayanlal,  
S/o Shri Hajariram,  
Aged 65 Years,  
Village Nimbol, Tehsil Jaitaran,  
District Pali (Rajasthan)
3. Ganesh Ram,  
S/o Shri Hajariram,  
Aged 58 Years,  
Village Nimbol, Tehsil Jaitaran,  
District Pali (Rajasthan)
4. Ramsukh,  
S/o Shri Hemaram,  
Aged 55 Years,  
Village Nimbol, Tehsil Jaitaran,  
District Pali (Rajasthan)
5. Dalaram,  
S/o Shri Hemaram,  
Aged 53 Years,  
Village Nimbol, Tehsil Jaitaran,  
District Pali (Rajasthan)
6. Sugnaram,  
S/o Shri Hemaram,  
Aged 50 Years,  
Village Nimbol, Tehsil Jaitaran,  
District Pali (Rajasthan)

7. Pukhraj,  
S/o Shri Hajariram,  
Aged 44 Years,  
Village Nimbol, Tehsil Jaitaran,  
District Pali (Rajasthan)

.....Applicants

**Versus**

1. State of Rajasthan,  
Through District Collector,  
Pali (Rajasthan)
2. Rajasthan State Pollution Control Board (RSPCB),  
Through Member Secretary,  
Institutional Area, Jhala Doongri,  
Jaipur (Rajasthan)
3. Siddi Vinayak Cement Pvt. Ltd.,  
Village Nimbol, Tehsil Jaitaran,  
District Pali (Rajasthan)

.....Respondents

**Counsel for Applicant :**

**Shri Ayush Dev Bajpai, Advocate**

**Counsel for Respondent No. 3 :**

**Shri Om S. Shrivastav, Advocate**

**Shri Yadavendra Yadav, Advocate**

**Counsel for Respondents No.1 & 2 :**

**Shri Sandeep Singh, Advocate**

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

---

**Dated : January 14<sup>th</sup>, 2016**

---

- 1) Whether the judgement is allowed to be published on the internet ----- yes / no
- 2) Whether the Judgement is to be published in the All India NGT Report ----- yes /no

**Dr. DEVENDRA KUMAR AGRAWAL, EXPERT MEMBER**

1. This Application is filed by the Applicants seeking relief from the operation of a cement plant as well as thermal power plant of Respondent No.3 which has been set up near the houses of the applicants who are residing in the Village of Nimbol, Tehshil Jaitaran, District Pali, and Rajasthan.

According to them they own the land bearing Khasra Nos. 449, 459 and 460 since 1984 with the total land holding of approximately 42 bighas. It is the case of the applicants that the cement plant started its operation around three months back and the Respondent No. 3 has also established a power plant of 30 MW which is merely at a distance of 50 m from the residence of the applicants. It is further argued that the conveyer belt of the thermal power plant is only at a distance of 5 m from the residence of the applicants.

2. According to the Applicants, the operation of the thermal power plant and the cement plant is causing immense harm to them in terms of air borne diseases. The activity also generates lots of noise pollution. These issues had been brought to the notice of the Respondent No. 1, however, no action has been taken so far. On these grounds, the applicants herein have filed the application with the prayer that no environmental degradation takes place in the area by the activity of Respondent No. 3 and for this purpose a fair inspection be carried out by the Respondent No. 2 to present the actual ground situation. The applicants further prayed that the plant in question should be either shifted away from the present location or the State Government be directed to rehabilitate the applicants at a place convenient to the applicants along with basic amenities including property for carrying out the agricultural activity.
3. Based on the directions of the Tribunal, Respondent No. 2 had carried out an inspection in May, 2015 and filed the Air Quality Monitoring Report. Based on excessive values of few parameters, they issued show cause notice to the Respondent No. 3 under the provisions of Air Act to remedy the deficiencies. It was also informed by the Respondent No. 2 that the captive Thermal Power Plant has been granted consent to establish and as

of now only trial run of the same are being conducted. The application for grant of consent to operate was pending with the Rajasthan State Pollution Control Board.

4. Subsequently, the Respondent No.3 also submitted reply and stated that they have overcome the deficiencies pointed out during the inspection of May, 2015 and a fresh inspection has been carried out by the Respondent No. 2 from 21<sup>st</sup> to 24<sup>th</sup> August, 2015 and the results of Air Quality monitoring are by and large within permissible limits.
5. The applicants vehemently disputed the above stated facts and argued that the dust level are still very high and compliances to the various Environmental Clearance conditions in terms of establishment of green belt has not been carried out. On these submissions, the Tribunal granted 10 days time to Respondent No. 3 to remove all the deficiencies to the satisfaction of the Pollution Control Board and directed the Rajasthan State Pollution Control Board to depute a team for carrying out fresh inspection with regard to parameters of PM<sub>2.5</sub>, PM<sub>10</sub>, SOX, NOX, etc. It was further allowed that a representative of the applicant can also remain present during the inspection. It was further directed that since number of mining leases in the area are operational in the close proximity of the cement plant and its thermal power plant, therefore, Respondent No. 2 should carry out inspection of all these mining leases and submit a comprehensive report including compliances of Environmental Clearance conditions. The Rajasthan State Pollution Control Board was also granted liberty to consider the application for grant of consent to operate in accordance with law with the liberty to take appropriate decision if they find that the plant in question is operating as per the requisite terms and conditions. It was also directed that if consent to operate is not granted by the Rajasthan State

Pollution Control Board to the Respondent No. 3, company shall stop the thermal power plant forthwith.

6. During the pendency of the case, consent to operate was granted to the Respondent No. 3 by Respondent No. 2. Meanwhile, the applicants again filed objections to the manner in which the previous inspection were carried out. Upon hearing the objections, we had directed the Respondent No. 2 to carry out a fresh inspection of the premises of Respondent No. 3 and its surrounding area for providing details of ambient air quality prevalent just outside the premises of the Respondent No. 3 in different directions as well as specific points within the premises of the Respondent No. 3. It was specifically asked to provide details of prevalent wind direction and providing specific inputs for creation of green belt that is required around the premises of Respondent No. 3 such that it acts as a barrier. For identification of suitable species of trees, it was directed to seek the opinion of the Forest Department.
7. Pursuant to this, ambient air quality monitoring was carried out at three (3) locations within the premises of the Respondent No. 3 and at six (6) locations outside the premises of the Respondent No. 3 which included three residential places, an agricultural field at about 50 m distance from the boundary and one sub-station of State Electricity Board. From the inspection report that has been submitted, it is observed that the ambient air quality parameters in terms of PM<sub>2.5</sub>, SOX and NOX as well as noise levels are well within the prescribed standards. In case of PM<sub>10</sub>, the test result show that out of 9 samples, two samples marginally exceed the prescribed standards whereas at one location, which is within the premises of the industry, the PM<sub>10</sub> level was high. The inspection report also reveals that the applicants initially resisted for the sampling, however, subsequently,

agreed for monitoring of ambient air quality. However, they raised the objections that sampling is being carried out at a time when the coal handling system and the industry are not fully operational. As per the information provided, the coal handling system operates twice daily for 2 ½ to 3 hours as the coal storage capacity is for 600 tons whereas the requirement of coal is about 17 to 20 tons per hour. In view of the capacity of conveyor belt, to meet its requirements for 24 hours operation of thermal power plant, conveyor belt operation for 3 hours is sufficient. It is further observed from the report that when the ambient air quality sampling has been carried out for 24 hours, conveyor belt operations even for intermittent period is taken care of.

8. The records of earlier 3 inspections with regards to monitoring of stack emissions from stack attached to power boiler, cement mill, coal mill, raw mill and clinker further establish the fact that stack emissions from the likely sources from the activities of Respondent No. 3 are well within the prescribed limit of 50 mg per Nm<sup>3</sup>. The inspection reports clearly report that likely cause for exceeding level of RSPM at few locations not only within the premises but outside the premises of the industry, is probably ongoing road construction, vehicular movement not only in the premises of the industry, but a large number of adjoining mining leases which have unmetalled approach or link roads, etc.
9. With respect to the establishment of green belt, the inspection report reveals that around 9500 sapling have been planted so far out of which 4700 saplings have been planted in the current year only. The report also indicates that over the next three years, the industry intends to develop green belt by planting 7000 to 8000 plants each year. Based on the inspection, following suggestions have been made:

- a. The industry shall make thick plantation on the eastern boundary adjacent to the complainants, of the variety which have thick foliage and of high height in order to suppress noise as well as the fugitive emissions. The height shall be of such order to effectively arrest the particles from coal handling system.
  - b. The industry shall also provide effective plantation on all boundaries as well as in open area.
  - c. The industry shall make systematic arrangement for watering of kachha roads or make pucca roads within the premises, in order to minimize the dust generation.
10. The respondent industry also raised objections regarding malafide intentions of the applicants by stating the facts that atleast one of the applicants herein had participated in the public hearing organized prior to grant of environmental clearance. It was also alleged that the applicants had sold about 15 bighas of land to the project proponent apart from the fact that the applicants had assisted the project proponent in establishing the industry by supplying water on commercial terms. It was strongly argued that the sole intention of the applicants is that the project proponent should purchase the remaining land of the applicants at commercial rates. For this purpose, the project proponent also submitted a proposal for rehabilitation of the applicants in response to the last prayer in the application wherein it has been suggested that the project proponent is willing to rehabilitate the applicants in three alternate ways. However, we are not inclined to comment on the issue of rehabilitation of the applicants as it is not within the domain of NGT Act itself and as such we are more concerned with the implementation of environmental safeguards in a manner that environmental degradation is not taking place.

11. Having perused the complete records that include 4 inspections in last 6 months, wherein it is observed that the cement plant and its thermal power plant is in initial stages of operation, at times few of the parameters of ambient air quality have been found to be exceeding the permissible limits, however, the stack emissions are well within the permissible limits and likely causative factors for RSPM enhanced level appears to be operation of large number of mining leases in the area with un-metalled roads. Therefore, we find no merit in the contention that the activities of respondent industry are responsible for enhanced level of RSPM in the ambient air quality of the area. However applying precautionary principle, it is directed that :

- (a) industry shall establish 5 (five) permanent ambient air quality monitoring station in different directions with the provision for online display of the results at its main gate.
- (b) Due records of operation and maintenance of all anti-pollution measures shall be maintained and shall be subjected to periodical inspection by the RS-PCB and
- (c) On-line stack emission monitoring system shall be installed and made operational with connectivity to RS-PCB.

12. With regards to creation of green belt, though efforts have been made by the industry, however, a time bound implementation of programme and its monitoring is needed. In this context, we had asked the Respondent No. 1 and 2 to finalize the green belt plan for Respondent No. 3 on a map. The same had been furnished alongwith the last inspection report. Details of plantation suggested at various locations as per the map are as below :



Sr. No.	Location	Name of Planted saplings	No. of planted saplings	Additional plantation to be completed by next monsoon season
1.	Plant main gate boundary wall	Karangi, Gulmohar, Asoka, Casia, Neem,	450	
2	Near & around WTP area	Karangi, Gulmohar, Casia, Neem, Seetafal, Amla	525	
3	Coal Crusher Boundary wall area	Karangi, Gulmohar, Casia, Neem, Seetafal	550	
4.	Hanuman Temple area	Karangi, Gulmohar, Casia, Neem, , Amla	362	
5	Store office/Mechanical office and near pond area	Karangi, Gulmohar, Casia, Amla	545	
6	Power plant ESP area & boundary wall till water gate & cooling tower	Karangi, Gulmohar, Asoka, Casia, Neem, Mango, Amla	695	
7	Guest house road side	Karangi, Casia, Neem, Imli, Seetafal, Gulmohar ,Asoka	495	
8	Packing plant road side	Karangi, Gulmohar, Casia, Seetafal,	345	
9	Power plant road side	Karangi, Gulmohar, Casia, Imli	250	
10	WHRS area	Gulmohar, Casia, Imli	340	
11	BRU area	Karangi, Gulmohar, Casia, Imli	135	
12	First aid container area	Karangi, Gulmohar, Casia, Neem	65	
	Total Plantation till 30.11.2015 (Plant premises)		4757	
	Last year plantation		4000	
	<b>Total Plantation (Plant premises)</b>		<b>9514</b>	<b>20,000</b>

Accordingly, we direct as follows :

- (a) We accept the same and direct that instead of 3 years, the green belt shall be created by the end of coming monsoon season of 2016 wherein atleast 20,000 saplings of about 3 to 4 ft. of species as recommended by the Forest Department shall be planted.
- (b) Appropriate after care, watering, and protection from stray animals, etc. shall be ensured and mortality shall be recorded and gap-filling exercise shall be undertaken for atleast next 3 years.
- (c) Complete details of the same shall be placed in public domain.
- (d) The industry shall make thick plantation on the eastern boundary adjacent to the complainants, of the variety which have thick

foliage and of high height in order to suppress noise as well as the fugitive emissions. The height shall be of such order to effectively arrest the particles from coal handling system. Minimum 5 mtr. width of green belt shall be developed on all sides.

13. With regards to ambient air quality, we direct that State Pollution Control Board shall carry out surprise inspections over next one year and issue appropriate directions from time to time not only to Respondent No. 3 but other mining leases operated in the area. Respondent No. 3 is also directed to keep complete record of anti-pollution measures, their upkeep and replacement and shall furnish the details thereof to the Pollution Control Board. We further direct respondent No. 3 to make all approach road/ link road, etc. to be metalled within the premises. The conveyor belt of the coal handling system shall remain covered all the time and Respondent No. 3 shall undertake a feasibility study for evaluating additional anti-pollution measures in this section.
14. **With these directions, the Original Application and all pending Misc. Applications stand disposed of with no order as to cost.**

**Bhopal :  
January 14<sup>th</sup>, 2016**

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

**(Dr. D.K. Agrawal)  
Expert Member**