

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

**Original Application No. 117 of 2014**

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**Original Application No. 499 of 2014**

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**Original Application No.102 of 2014  
(M.A. NO. 858/2014, M.A. NO. 872/2014,  
M.A. NO. 42/2015, M.A. NO.287/2015  
& M.A. NO.694/2015)**

**Shantanu Sharma Vs Union of India & Ors.**

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**Anupam Raghav & Anr. Vs. U.O.I. & Ors.**

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**Sandplast (India) Ltd. & Ors. Vs. MoEF & Ors**

**CORAM: HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Original Application No. 499 of 2014**

**Present:**

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| <b>Applicant :</b>                       | <b>Appearance not marked</b>   |
| <b>Respondent No. 1:</b>                 | <b>Mr. Vikas Malhotra Adv.</b>                                       |
| <b>Respondent Nos. 2 to 5:</b>           | <b>Ms. Savitri Pandey and Ms. Azma Parveen, Advs.</b>                |
| <b>Respondent Nos. 6 to 9:</b>           | <b>Mr. Pradeep Misra and Mr. Daleep Kr. Dhyani, Advs.</b>            |
| <b>Respondent Nos.2-5,10-11:</b>         | <b>Ms. Savitri Pandey and Ms. Azma Parveen, Advs.</b>                |
| <b>State of Meghalaya</b>                | <b>: Mr. Upendra Mishra, Adv., Ms. Aparajita, adv.</b>               |
| <b>RSPCB</b>                             | <b>:Mr. Ranjan Mukherjee, Mr. Adhiraj, Mr. Saurabh Rajpal, Advs.</b> |
| <b>Andaman &amp; Nicobar Island</b>      | <b>: Mr. Sarthak Chaturvedi, Mr. Rohit, Mr. D. N. Tripathi Advs.</b> |
| <b>State of Mizoram&amp; Mizoram PCB</b> | <b>:Mr. Ravikant, Mr. Pragyan, Mr. Pulkit, Advs.</b>                 |
| <b>Puducherry</b>                        | <b>: Mr. Abhimanyu, Ms. Preety, advs.</b>                            |

**Original Application No.102 of 2014**

**Present:**

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| <b>Applicant:</b>  | <b>Mr. Tasneem Ahmadi, Mr. Pramod Kumar, Advs.</b>            |
| <b>Respondent No. 1</b>                                    | <b>Mr. Vikas Malhotra , Mr. M.P. Sahay Adv.</b>               |
| <b>Respondent Nos. 3,22,41, 61,83,103,115, 125</b>         | <b>Ms. Priyanka Sinha, Ms. Anu Tyagi, , Advs.</b>             |
| <b>Respondent No. 3</b>                                    | <b>Mr. B.V. Niren, Adv.</b>                                   |
| <b>Respondent No. 5 &amp; 131</b>                          | <b>Mr. Bharat Sanghal, Adv. and Ms. Srijan Advs.</b>          |
| <b>Respondent No.4,12 &amp; 128</b>                        | <b>Mr. Sandeep Mahapatra, Advocate</b>                        |
| <b>Respondent Nos. 7, 81,107, 45 65, 112, 118, 119, 75</b> | <b>: Mrs. Avnish Ahlawat, Adv.</b>                            |
| <b>Respondent No. 13&amp; 15</b>                           | <b>:Dr. Kumar Jwala and Mr. Om Prakash, Adv.</b>              |
| <b>Respondent Nos. 14, 32, 53 75 &amp; 95</b>              | <b>:Mr. N. Sai Vinod and Mr. Nikhil Nayyar, Advs.</b>         |
| <b>State of Mizoram</b>                                    | <b>.,Mr. Ravi KANT, Mr. Pragyan Sharma, Advs.</b>             |
| <b>Respondent No. 17,36,56,78 &amp; 98</b>                 | <b>Mr. Atul Jha, Adv.</b>                                     |
| <b>Respondent No. 24</b>                                   | <b>:Mr. Pankaj Kr. Mishra and Mr. Ajit S. Bhasme, Advs.</b>   |
| <b>Respondent No. 32, 52, 94 114 126</b>                   | <b>:Mr. D.K. Thakur, Mr. Deepak Jain and Mr. Alok, Advs.</b>  |
| <b>Respondent No. 63 :</b>                                 | <b>Mr. Mukesh Verma, Adv</b>                                  |
| <b>Respondent No. 75 &amp; 95</b>                          | <b>:Mr. Guntur Pramod Kumar and Mr Prashant Mathur, Advs.</b> |
| <b>SPCB orisha</b>   | <b>: Mr. A.K. Pandey, Mr. M. Paikaray, ADVS.</b>              |
| <b>State of Arunachal Pradesh &amp; PCB</b>                | <b>: Mr. Anil, Mr. Sayam Saxena and Mr. Pranav ADVS.</b>      |
| <b>Respondent No. 28, 48, 68 90, 110 and 127</b>           | <b>:Mr. Ajay Choudhary, Adv.</b>                              |
| <b>Respondent No.30,50,70,92&amp;112:</b>                  | <b>Mr. Raman Yadav,Adv., Mr. Dalsher Singy, Adv.</b>          |
| <b>State of Tamil Nadu</b>                                 | <b>: Mr. yogesh, Mr. Jayanat, Advs.</b>                       |

**Respondent no. 106** : Mr. Ravin Dubey, Adv.  
**WBPCB** Mr. Amit Agrawal, and Ms Asha Nayar Advs.  
**Respondent No. 11 :** Mr. Balendu Shekar, Mr. akshy Adv. for EDMC  
, Akshay Abrol, Advs.  
**Respondent No. 47, 67 & 89** :Mr. Shubham Bhalla. Adv.  
**CPCB** : Mr. Raj Kumar with Mr. Bhupinder and Ms. Jatinder  
kaur. LA  
**Sikkim** : Mr. Aruna, Mr. Avneesh, Ms. Anuradha, Advs.  
**DPCB** : Mr. Biraja, Adv. Mr. Dinesh, LO  
**Respondent No. 30,50,92,112** Mr. Raman Yadav and Mr. Dalsher Singh, Advs.  
**Andaman and Nicobar** : Mr. SARTHAK Chaturvedi, Mr. Rohit and Mr. D.N.  
Tripathi Advs.  
**Respondent No. 169** :Mr. Saket Sikri, Mrs. Navneet and Mr. Junaid Nahvi  
**State of Manipur** :Mr. SAPam Biswajit, Mr. Savijayanand, Ms. kalyani  
Advs.  
**State of Bihar & PCB** :Mr. Rudreshwar, Mr. GAUTAM, Ms. Divya, Advs.  
**West Bengal** :Mr. Amit Agarwal Adv.  
**JSPCB** :Mr. Jayesh Gaurav, Adv.  
**Assam** :Ms. Deepika, Ms. Kankana, Advs.  
**Meghalaya** :Mr. Ranjan Mukherjee Mr.Upendra Mishra, Mr. Aparajit  
Advs.  
**Respondent No. 63,UPCBS,MPCB:** Mr. Mukesh Verma, adv.  
**PCB Assam** :Mr. Shuvodeep Roy, Adv.  
**Respondent No.24,43&105** :Mr. Pankaj, Mr. Ajit, ADVS.  
**Respondent No. 109** :Mr. Jayant k. Sud, Mr. pranshu, Advs.  
**CECB** :Ms. Yogmaya Agnihotri, Adv.  
**APPCB&TSPCB** :Mr. N. Sai Vinod  
**Respondent No. 116** : Mr. Santosh, Adv.  
**Telangana SPCB** :Mr. palwai venkat reddy. Mr. prashant, Advs.  
**Respondent No. 130** :Mr. Ajit, Ms. Shruti, ADVS.  
**Respondent(Applicant)**  
**(M.A. NO. 42/2015, O.A. 102/2014) :** saket, Mr. Juniad, Mr. navneet, Advs.  
**Karnataka** :Mr. Devraj Ashok, Adv.  
**Meghalaya SPCB** : Mr. Tayenjam Momo, Adv.  
**State of Goa:** Mr.. Atmaram N.S. Nadkarani, Mr. S.S. Rebello, Ms.  
Debarshi, Mr. Anshuman, , Advs.  
**Gujarat PCB** : Ms. vinakshi, Ms. Hemantika, Mr. Dhruv ADVS.  
**Respondent No. 132** :, Mr. Anand, , Advs.  
**Respondent No. 74** :Mr. Abhishek pruthi  
**HPPCB** : Mr. D.K. Thakur and Mr. S. Ahmed Adv.  
**Nagaland&Nagaland PCB** :Mr. K. Entoli Semag, Mr. Amit, Advs.  
**Rajasthan** : Mr. Ajay, adv.  
**DJB** : Mr. suresh, adv.  
**TSGENCO** : Mr.abhinav rao, Adv.  
**Respondent no. 38** : Ms. Ranjana, Mr. namit, Ms. Sonakshi, advs.  
**MPPCB** : Mr. Rajul, Ms. Sucheta, Adv.  
**M.P.** : Mr. V.k. Shukla, Adv.  
**UPPCB** : Mr. Pradeep Mishra, Mr. Daleep Dhyani, Advs.  
**Respondent no. 95** : Ms. Pallvai Venkat Reddy, Mr. prashant, advs.  
**Puducherry** : Mr. abhimanyu, Ms. Preety, advs.  
**State of W.B.** : Mr. bikar, Mr. amit, advs.  
: Mr. shubham, Adv.  
**HSPCB** : Mr. anil, Mr. Rahul, advs.  
: Ms. Shakshi Popli, Adv. for MoEF  
: Mr. Jogy Scaria and Ms. Beena, Advs. for State of  
Kerala and KSPCB  
: Dr. Abhishek and Mr. Sumit Razora, Advs. for UT  
lakshdweep  
: Mr. Ashok Gupta, Sr. Adv. and Mr. Ghanshyam, Advs.  
for NALCO  
Mr. Shiv Mangal, Mr. Adhiraj, Mr. S. Rajpal, Advs. for  
RSPCB  
|Mr. Jayan K. Sud and Mr. Honey Khanna, Mr. Dhingra,  
Advs for state of Punjab  
Mr. Tayenjam Momo, Adv for State of Meghalaya  
: Mr. D. Bhadra, Adv. for NBCC Ltd.

: Mr. Alok Kumar and Mr. Dinesh and Ms. V. Singh, Adv. for UT Daman Diu and Dadra and Nagar Haveli  
 : Mr. Gopal Singh and Ms. Versha Poddar, and Mr. Riuraj, Adv. for State of Tripura  
 : Mr. Sapam Biswajit and Ms. Kalyani, Adv. for Manipur PCB  
 : Mr. Anad verma, Adv. for Respondent no. 132  
 : Mr. Vikas and Mr. Amit, Adv. for Respondent nos 31, 51, 71, 93  
 Ms. Priyanka and Mr. G. M. Kawoosa and Ms. Antima, Adv. for Jharkhand PCB

**Original Application No. 117/2014**

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| Applicant              | : Mr. Neeraj Mr. Vardhman Kaushik, advs.   |
| Respondent no. 1       | : Mr. Vikas, Mr. M.P. Shay, Adv.   |
| Respondent no. 4       | : Mr. K. S. Parikar, Adv.  |
| RSPCB                  | : Mr. Sumit, Dr. Abhishek , Adv.   |
| RBI                    | : Mr. K.S. Parihar, Mr. H.S. Parihar, ADVS.  |
| Puduchery              | : Mr. Abhimanyu, Ms. Preety Makker, Adv.   |
| PCB                    | : Mr. Shuvodeep Roy, Adv.  |
| Andaman & Nicobar      | : Mr. G. Indira, Mr. K. V. J. Adv.   |
| Respondent No. 24&36   | : Mr. Mukesh Verma, Adv.   |
| Respondent No. 16 & 45 | : Mr. Anil Grover, Mr. Rahul Khurana, Adv.   |
| M.P.                   | : Mr. V.k. Shukla, Adv.  |
| M.P.PCB                | : Mr. Rajul Shrivastav and Ms. Suchta Yadav, Adv.  |
| Respondent No. 65      | : Ms. Savitri Pandey, Ms. Azma Parveen, Adv.   |
| Tamil Nadu             | : Mr. M. Yogesh, Ms. Jayanti Patel, ADVS.  |
| UPPCB                  | : Mr. Pradeep Mishra, Mr. Daleep Dhyani, Adv.  |
| Sikkim                 | : Mr. Arun Mathur, Mr. Avneesh, Ms. Anuradha, Adv.   |
| Nagaland&Nagaland PCB  | : Mr. K. Entoli Semag, Mr. Amit, Adv.  |
| Meghalaya SPCB         | : Mr. Tayenjam, Adv.   |
| Lakshwadeep            | : Dr. Abhishek, Mr. Sumit, ADVS.   |
| Bihar & BSPCB          | : Mr. Rudreshwar, Mr. GAUTAM, Ms. Divya, Avs.  |
| West Bengal            | : Mr. Viskar, Mr. Amit Aggarwal, Adv.  |
| JSPCB                  | : Mr. Jayesh Caurav, Mr. Dhruv Pal and Ms. Hemantika Wahi and Mr. Vinakshi Kadan, Adv.                                 |
| Meghalaya              | : Mr. Upendra Mishra, Ms. Aparajit and Mr. Ranjan Adv.   |
| MeghalayaPCB           | : Mr. Tayenjam Momo, Adv.  |
| Karnataka              | : Mr. DEVRAJ, Adv.   |
| Manipur                | : Ms. Sapam, Ms. Kalyani, Mr. S. Vijayanand, Adv.  |
| Goa SPCB               | : Mr. A.N.S Nadkarant, AG., Mr. Purna Bhandari , Adv., Ms. Debarshi, Adv., Mr. S.S. Rebello, Adv.,, Mr. Anshuman, Adv. |
| Tripura                | : Mr. Gopal, Ms. Varsha, Adv.  |
| Gujrat                 | : Ms. vinakshi, Ms. Hemantika, ADVS.   |
| HPPCB                  | : Mr. D.K. Thakur, Adv. Mr. Suryanaryana Singh, AAG  |
| HP                     | : Mr. Suryanaryana Singh, AAG  |
| Arunachal Pradesh      | : Mr. Anil, Adv.   |
| HP                     | : Mr. Suryanarayan, Sr. Adv General.   |
| Respondent no. 3       | : Mr. Purva, Ms. Sonia, Adv.   |
| SPCB orisha            | : Mr. A.K. Pandey, Mr. M. Paikaray, ADVS.  |
| MPPCB                  | : Mr. Rajul, Ms. Sucheta, Adv.   |
| Andaman and Nicobar    | : Mr. Sarthak Chaturvedi, Mr. Rohit, Mr. D. N. Tripathi Adv.   |
| DPCC                   | : Mr. Birga, Mr. Dinesh, Adv.  |
|                        | : Mr. Shubham Bhalla, Adv.   |
|                        | : Mr. Rajkumar, Adv. with Mr. Bhupinder and Ms. Jatinder Kaur, LA, CPCB  |
|                        | : Mr. Pragyan Sharma, and Mr. Ravi Kant, Adv. for State of Mizoram   |
|                        | : Ms. Sonia Sharma, Sr. Standing Counsel Ministry of finance Deptt. Revenue  |
|                        | : Mr. S. Roy, Adv. for Assam PCB   |
|                        | : Mr. Anil Shrivastav and Mr. Sanyam and Mr. Pranav Rishi, Adv. For Arunachal Pradesh and State PCB                    |
|                        | : Mr. V. K. Shukla, Adv. for State of Madhya Pradesh   |



: Mr. Jogy Scaria and Ms. Beena, Advs. For State of Kerala and State PCB  
 : Mr. D. K. Thakur and Mr. Deepak amnd Mr. Alok Kumar, Advs. For UT DD, DNH  
 : Mr. Birja Mohapatra, Adv. and Mr. Dinesh Jindel, LO  
 : Mr. Mukesh Verma, Adv. for MPCB

|  | <b>Date and Remarks</b>                              | <b>Orders of the Tribunal</b>  |
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|  | <p><b>Item Nos. 8 to 10<br/>January 06, 2016</b></p> | <p>Heard. Perused Record.</p> <p>We had directed the Respondent No. 1 i.e. MoEF and Ministry of Coal, Government of India to reveal to us the facts concerning the constitution of Expert Committee envisaged in Notification dated 03-11-2009. Learned Counsel appearing for the MoEF submits that Expert Committee as envisaged under Notification dated 03-11-2009 is in place as per the O.M. dated 04-02-2010 issued by the Ministry of Coal, Government of India. Copy of the O.M. be furnished to the applicant. Ministry of Coal, Government of India shall place before us the relevant Minutes of the meetings of the Expert Committee held from time to time in order to reveal action taken by them. Copy of it be furnished to the applicant.</p> <p>Learned Counsel appearing on behalf of the Ministry of Coal, Government of India seeks time to place these minutes before the Tribunal.</p> <p>Our attention is further drawn to the obligations cast on the State Government/Local Government/Private and/or Public Sector to use only fly ash based products for construction within the radius of 100 kms from coal and lignite based thermal power plants vide paragraphs 1(a) and 1(B) of paragraphs 1 of Notification dated 14-09-1999 as follows:</p> |

“(1A) Every construction agency engaged in the construction of buildings within a radius of hundred kilometers from a coal or lignite based thermal power plant shall use only fly ash based products for constructions, such as: cement or concrete, fly ash bricks or blocks or tiles or clay fly ash bricks, blocks or tiles or cement fly ash bricks or bricks or blocks or similar products or a combination or aggregate of them in every construction project.

(1B) The provisions of sub-paragraphs (1A) shall be applicable to all construction agencies of Central or State or Local Government and private or public sector and it shall be the responsibility of the agencies either undertaking construction or approving the design or both to ensure compliance of the provisions of sub-paragraphs (1A) and to submit annual returns to the concerned State Pollution Control Board or Pollution Control committee, as applicable”.

Learned Counsel appearing on behalf of the Applicant in Original Application No. 102 of 2014 submits that there is no escape from this obligation and every construction agency engaged in the construction of buildings be those of the State Government/Local Government/Private and/or Public Sector situate within the radius of 100 kms from coal and lignite based thermal power plants has to use only fly ash based products for construction as mandated and, therefore, it is necessary to hold the concerned authorities committing breach of this obligation liable for penal consequences.

It is brought to our notice at this stage that for enforcement and implementation of the provision of this Notification, there is inbuilt mechanism provided by amended Notification dated 03-11-2009.

(6) A monitoring committee shall be constituted by the Central Government with Members from Ministry of Coal, Ministry of Mines, Ministry of Power, Central Pollution control Board, Central Electricity Authority, Head Fly Ash Unit of Department of Science and Technology and Building Material Technology Promotion Council to monitor the implementation of the provisions of the notification and submit its recommendations or observations at least once in every six months to the Secretary, Ministry of Environment and Forests. Concerned Advisor or Joint Secretary in the Ministry of Environment and Forest will be convener of this committee.

(7) For the purpose of monitoring the implementation of the provisions of this notification the State Governments or Union territory Government shall constitute a Monitoring Committee within three months from the date of issue of this notification under the Chairmanship of Secretary, Department of Environment with representatives from Department of Power, Department of Mining, Road and Building Construction Department and State Pollution Control Board and this Committee would deal with any unresolved issue by Dispute Settlement Committee as prescribed in sub-paragraph (4) of paragraph 1, in addition to monitoring and facilitating implementation of this notification at the respective State Government or Union territory level and this Committee would also be empowered to suitably modify (waive or relax) the stipulation under sub-paragraph (1) in case of non-availability of fly ash in sufficient quantities from thermal power plant as certified by the said power plants and the Committee will meet at least once in every quarter”.

We, therefore, direct the concerned authorities, the Respondents, MoEF and the State Governments and Union Territories to place before us the facts concerning the constitution of the Monitoring Committees on the next date of hearing and the action taken by such Monitoring Committees if constituted already; and if such Monitoring Committee has not been constituted as mandated the State Governments and/or Union Territories shall constitute such Monitoring Committee within four (4) weeks from today.

List these matters on 15<sup>th</sup> February, 2016.

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

.....,EM  
(Ranjan Chatterjee)