

Item No. 01

Court No. 1

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

Original Application No. 141/2014

Saloni Singh & Anr.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 04.12.2019

Date of uploading of order: 12.12.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

ORDER

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I. The Issue: Compliance of Plastic and Solid Waste Management rules, preventing discharge of effluents, management of water at railway stations, compartments and tracks and removal of encroachments causing environment degradation:

1. This order may be read in continuation of order dated 26.03.2019.

The issue for consideration is compliance of Plastic and Solid Waste Management Rules at railway compartments, stations, tracks etc.,

removal of encroachments from the railway properties, preventing of unlawful discharge of effluents and judicious management of water, including its recycling and re-use by the Railways.

II. Orders of this Tribunal after considering CAG Report for preparation and execution of Remedial Action Plans:

2. The matter has been considered from time to time by various orders of this Tribunal in the last five years. Vide order dated 01.10.2018, the matter was considered in light of the report of the Comptroller and Auditor General (CAG) titled "Environment Management in Indian Railways". The report found unsatisfactory state of affairs with regard to handling of waste, discharging of waste water, uncontrolled open defecation on railway tracks, unhygienic conditions and health hazards. The Tribunal also noted the study conducted by Central Pollution Control Board (CPCB) at 14 major stations which found that there was no system of monitoring of waste water discharge, non-compliance of functioning of ETPs, discharge of effluents in water bodies, absence of measures to conserve flora and fauna, unsatisfactory segregation, transportation and collection of waste, bulk generation of waste including pet bottles, food packaging, plastic carry bags, disposal cups, etc. for which adequate measures were not being taken.
3. The Tribunal directed preparation of Remedial Action Plan by 30.11.2018 which was to be notified on the website for the comments of general public and finalised before 31.03.2019. The CAG was to conduct Performance Audit on or before 30.06.2019 on the issue of solid waste, plastic waste, open defecation along railway tracks,

encroachments, waste water/ sewage treatment, water recycling and reuse, energy efficiency, etc.

III. Order dated 22.01.2019 for execution of Environment Management Plans at 5% of 720 major stations:

4. The Railway Administration filed an action plan but the same was not complete as noted by the Tribunal vide order dated 22.01.2019. It was noted that there are 720 major stations, apart from more than 6000 other stations. It was directed that in the first phase, environment management system of '14001' (ISO) standard be achieved in atleast 5% of major stations i.e. 36 stations which may be developed as model stations. This may be replicated in phases, first for all the major stations and then for others. 'Polluters Pays' principle be evolved consistent with the law laid down by the Hon'ble Supreme Court in the matter of *Vellore Citizens Welfare Forum Vs. Union Of India & Ors.*¹. The action plan should have verifiable indicators and progress may be reviewed periodically. The identified major stations may have the websites or appropriate mechanism to receive grievances with regard to cleanliness and hygiene issues. The Railway being the bulk generator of waste including pet bottle may set up its decentralised facilities for waste disposal and also coordinate with the Local Bodies for solid and plastic waste management.
5. The matter was thereafter considered on 26.03.2019 in light of action plans for 37 railway stations. It was observed:

"7. Learned ASG has made a statement that the action plans with regard to 37 identified major stations will be implemented in the timeline of three months from today for which budget allocation has already been made. The Nodal Officers have

¹ (1996) 5 SCC 647

been identified by the Railway Administration to oversee implementation of environment management systems of the said 37 stations. They will also act as a regulators for environment norms and will have authority to lay down and collect compensation on 'Polluter Pays' principle. They will be authorised to issue receipts for the compensation so recovered. This mechanism will be put on the website.

8. *We are also of the view that with regard to next phase, action plans be prepared for all the remaining major stations indicating phase wise steps and categories of implementation. The action plans may have categories for number of stations for different phases but all the major stations should be covered within one year on the pattern of 37 major stations already identified.*

9. *We also expect that de-centralised municipal solid waste plants may be set up at the identified locations in terms of Solid Waste Management Rules, 2016.*

10. *The Executive Director, Environment and Health Management (ENHM), Railway Headquarters, may compile the progress of execution of action plans periodically and also lay down adverse consequences for the Nodal Officers or others who fail to execute the action plans within the targeted timeline by way of entry into their annual reports. Such action taken may be compiled. The Executive Director, ENHM, may furnish such compiled action taken report to the CPCB by 31.07.2019. The CPCB may audit the same and furnish its report to this Tribunal within one month thereafter by e-mail at ngt.filing@gmail.com.*

11. *We also direct the Executive Director, ENHM, Railway Board to remain present in person on the next date.*

12. *The Railway Board may also compile data of preparation of action plans for the remaining major stations within three months and furnish the same to the CPCB which may be analysed by CPCB within one month thereafter. The whole exercise may be taken up simultaneously without holding up the action plans already prepared. There will be no bar to action plans being prepared for medium stations as well as other than major/medium stations which aspect may be monitored by different set of Officers. This exercise need not await completion of other steps. If the CPCB finds that action plan has been duly implemented and selected railway stations are meeting the parameters of ISO 14001, such stations may be certified as eco-smart stations.*

13. *The Railway Administration may have a mechanism to coordinate with the Local Bodies so that Local Bodies which are doing well in terms of cleanliness do not feel helpless in maintaining the city clean on account of lack of adequate efforts at the railway stations. We are informed that at Bhopal the Local Body is finding it difficult to declare the city*

clean on account of lack of efforts of the Railway Administration at railway stations at Bhopal. Such a situation may be verified at Bhopal as well as other major stations in the first phase and for other stations at a later stage.”

IV. Reports filed by the Railway Administration on 03.12.2019 and Inspection Report dated 06.09.2019 of CPCB in respect thereof:

6. Accordingly, following reports have been put up for consideration today:

- i. Report dated 03.12.2019 filed on behalf of the Railways.
- ii. Report dated 06.09.2019 filed by the CPCB.
- iii. Report dated 03.12.2019 filed by the CAG.

7. We may first take up the report of the Railways. The report mentions initiatives taken by the Indian Railways for solid waste management, prevention of littering of solid and plastic waste, prevention of open defecation on Railway land adjoining tracks and open discharge of human waste on platforms and lines and prevention of encroachments. Summarised position in respect of 37 identified railway stations and with regard to remaining 683 major railway stations has also been given.

8. The report of CPCB mentions the observations viz-a-viz 24 action points in respect of 36 stations inspected in the month of August 2019. Table 1 giving implementation status of pointwise action plans is as follows:

Table 1: Implementation status of point wise action plan for Railway station

S. No.	Action Point	Status	CPCB's Observations
1	To achieve ISO 14001	28 Stations have obtained ISO 14001 Certification	
2	Water Audit	28 Stations have conducted water audit	
3	Energy Audit	26 Stations have conducted Energy audit	
4(a)	Gross water consumption (KLD)	Data has been provided	Only data; Adequacy cannot be assessed
(b)	Scope of Recycling of water/ Effluent/ Sewer age (KLD)	Data has been provided	Only data; Adequacy cannot be assessed
(c)	Effluent/ Water/ Sewer age Recycling plant planned (KLD) (with TDC)	13 stations have established ETP/ STP/ Water Recycling Plant WRP)	Target specified/ Adequacy cannot be assessed
(d)	Capacity of ETP/ STP/ WRP already installed (KLD)	Data has been provided	Only data; Adequacy cannot be assessed
(e)	Recycled water available(KLD)	Only Data has been provided	Only data; Adequacy cannot be assessed
5(a)	Pairs of dustbins required for Segregated collection of solid waste.	32 stations have provided adequate number of dustbins	
(b)	Dustbins to be provided		
6(a)	No. of plastic bottle crushing machines planned.	27 stations have provided bottle crushing machines	
(b)	Provided		
7	Composting Plant at Rly. Stn. (No. & Capacity)	Only Data has been provided	Capacity specified; However target and qty of total waste not specified; hence no assessment can be made
8	Material Recovery Facility(Area in sqm)	Only Data has been provided	Capacity specified; However target and qty of total waste not specified : hence no assessment can be made
9	Status of cleaning contract(Yes/ No)	All Stations have signed cleaning contract	Adequacy assessment cannot be made

10	Transportation of segregated waste(Yes/No)	29 stations have provision for transportation of segregated waste	Adequacy assessment cannot be made
11	Rag picking contract status (for approaches to station-Tracks beyond 50 m from edge of farthest PF).	29 stations have signed the contract	Adequacy assessment cannot be made
12	CCTV Cameras for Monitoring for cleanliness (Nos.)	All stations have installed CCTV cameras	Adequacy assessment cannot be made
13	Authority nominated to penalize the persons involved in littering at stations.	All stations have nominated the concerned Authority	
14 (a)	No. of locations for display of notice for penalty and posters on public awareness campaigns.	Only data has been provided	Only data; Adequacy cannot be assessed
(b)	Notice/posters available(Nos.)	Only data has been provided	Only data; Adequacy cannot be assessed
(c)	Nos of passenger penalized	Only data has been provided	Only data; Adequacy cannot be assessed”

It is observed that the Action Plan prepared by Railways does not ensure that the environmental aspects are adequately addressed and also does not cover all environmental aspects.

CPCB conducted a detailed assessment of 36 stations as per the format given at Annexure V CPCB inspection reports as per the above format of 36 stations is placed at Annexure VI. Summary of CPCB’s observations is given in Table 2 below. It may be noted that the preliminary data for assessment has been provided by Railways.

9. Summary of inspection reports about the said stations is given in table 2 as follows:

“TABLE 2: SUMMARY OF CPCB's INSPECTION REPORT 36 Stations

Sl. No	Item	Remarks
3	Status of Regulatory Requirements	
a	Consent Under Air Act	Nil
b	Consent Under Water Act	Nil
c	Authorization under Hazardous Waste Management Rules	Nil
5	Water Pollution	
a	Assessment of Water consumption :	
ix	Total fresh water consumption (m ³ /d) s	2.24- 232 LPCD (< 10 - 7 Stations (Pune, Sealdah, Howrah, Delhi, Mumbai, Katihar & Nasik (> 200 - 1 Stations (Manduadih)
xi	% of Recycled water used*	0-100% (100% at Pune & Jaipur ; 0 % at 15 Stations-Ajmer, Dhanbad, Guwahati, Howrah, Jodhpur, Katihar, Manduadih, Mumbai, Nasik, Delhi, Ranchi, Thiruvananthapuram, Vadodara, Vijayawada and Vizianagram as per data provided by Railways
c	Waste water treatment system	
i	Has Effluent Treatment Plant been provided (Y/N)	Provided in 15 Stations- Ajmer, Agra, Bhopal, Howrah, Hubali, Jabalpur, Jodhpur, Jaipur, Kacheguda, Mysore, Pune, Sealdah, Trichy, Varanasi and Vishakhapatnam; Under construction in Thiruvananthapuram
ii	If yes, please provide details of ETP including capacity and schematic layout	7 Stations have provided ETP with adequate capacity : Ajmer, Bhopal, Howrah, Jabalpur, Jaipur, Jodhpur, Mysore and Trichy
v	Has sewage treatment plant been provided (Y/N)	Provided in eight stations- Bhopal, Jabalpur, Bilaspur, Raipur, Pune, Jaipur, Secunderabad and Trichy and under construction in three stations- Jodhpur, New Delhi and Vishakhapatnam; Jaipur and Bilaspur have provided STP with adequate capacity
vi	If yes, please provide details of STP including capacity and schematic layout	Jaipur and Bilaspur have provided STP with adequate capacity
d	Waste water Disposal	

ii	Waste water quality at point of discharge	6 Stations are not meeting standards for discharge Hubali, Agra, Jaipur, Vijaywada, Manduadih and Ajmer as per monitoring carried out by CPCB
e	Water Conservation	
i	Water consumed in washing one coach (m ³ /d)	Minimum at 0.05 m ³ /coach at Thiruvananthapuram and at 7 stations < 300 L/coach - Dhanbad, Jodhpur, Hubali, Chennai, Kacheguda, and Guwahati
iii	Has Automated Coach Washing System been installed (Y/N)	Installed at 11 stations : Ajmer, Jodhpur, Kacheguda, Mumbai, Nasik, Pune, Raipur, Ranchi, Vadodara, Vishakhapatnam and Vizianagram
iv	Has Rain Water Harvesting System been provided (Y/N)	Provided at 13 stations: Ajmer, Howrah, Jabalpur, Jaipur, Kacheguda, Manduadih, Chennai, Pune, Ranchi, Secunderabad, Trichy, Vishakhapatnam, Vizianagram
6	Solid Waste management:	
a	Assessment of Quantity of waste generated	
i	Estimated quantity of waste generated (TPD)	Waste generated : 3.33- 389 gm per capita per day; minimum of 3.33 at Sealdah and > 100 at Varanasi
iv	Has contract been signed for Solid Waste Management at station (Y/N)	All stations have signed contract for waste management
v	Quantity of waste for which contract has been signed (TPD)	14 stations- Mumbai, Ajmer, Allahabad, Bhopal, Jabalpur, Jhansi, Jodhpur, Guwahati, Mumbai, Pune, Secunderabad and Thiruvananthapuram have not awarded Contract of adequate quantity
vi	Does the contract have provision for segregation of waste ?(Y/N)	18 stations - Bhopal, Bilaspur, Guwahati, Nasik, Raipur, Hubali, Jabalpur, Jaipur, Jodhpur, Katihar, Lucknow, Chennai, Mumbai, Mysore, Ranchi, Thiruvananthapuram, Vadodara and Vishakapatnam have provision for waste segregation in their contract
vii	Does the contract have provision for waste processing ?(Y/N)	12 stations - Bilaspur, Guwahati, Jaipur, Katihar, Lucknow, Mumbai, Mysore, Delhi, Raipur, Sealdah, Vadodara and Vishakapatnam have provision for waste processing in the waste contract
b	Waste collection	
i	Whether twin bin system adopted for collection of dry/wet waste : Yes /No)	Installed in all stations except Vizianagram

ii	Whether numbers of bins provided adequate to collect the waste Yes/No) :	Adequate in all except in Vizianagram and Jhansi
iii	Whether bins been provided with adequate signage highlighting the purpose of disposal of segregated waste (Y/N)	Provided in all stations except 8 stations: Allahabad, Howrah, Jhansi, Sealdah, Mumbai, Vishakapatnam, Vizianagram and Vijayawada
iv,	Was overflowing of bins observed (Y/N)	Overflowing bins were observed at two stations-Lucknow & Mumbai
v	Was littering of waste observed on the platform (Y/N)	Littering of waste was observed at three stations-Lucknow, Mumbai & Manduadih
vi	Frequency of collection of waste from the bins (once/twice/thrice/four times/More)	Frequency of collection of waste is less than twice at Howrah, Nasik and Vizianagram
vii	Has informal sector been integrated into the waste collection system (YIN)	10 Stations have integrated informal sector-Allahabad, Bilaspur, Guwahati, Howrah, Jaipur, Mysore, Raipur, Vadodara, Vishakaptanam and Vizianagram
ix & x	ix) Does the station collect waste from crossing trains (Y/N) x)Is this waste taken into consideration while assessment of total quantity of waste	8 Stations-- Bhopal, Jabalpur, Jodhpur, Thiruvananthapuram, Mumbai, New Delhi, Raipur and Manduadih have not taken train waste into consideration
c	Waste transportation	
ii	Is dry /wet waste transported separately (Y/N)	17 stations transport dry/wet waste separately - Mysore, Chennai, Ajmer, Bilaspur, Dhanbad, Guwahati, Jaipur, Jodhpur, Katihar, Lucknow, Nasik, Delhi, anchi, Thiruvananthapuram, Trichy, Vadodara, Vishakapatnam -
iii	Capacity of vehicles deployed	Capacity of vehicles is inadequate atThiruvananthapuram, Bhopal, Jabalpur, Jaipur, Katihar, Lucknow, Mumbai, Nasik, Secunderabad and Varanasi
d	Waste processing facility	
i	Does the station have a wet waste processing capacity	12 stations have wet waste processing facility : Bilaspur. Dhanbad, Guwahati, Jaipur, Kacheguda, Katihar, Lucknow,, Mumbai, Nasik, Thiruvananthapuram, Vadodara and Vishakapatnam
iii	Capacity of wet waste processing facility	5 stations have adequate wet waste processing facility Guwahati, Jaipur, Katihar, Bilaspur and Vadodara

iv	Has end use of product of wet processing facility planned	8 stations have plan to use their end product : Bilaspur, Guwahati, Jaipur, Katihar, Mumbai, Thiruvananthapuram, Vadodara and Vishakapatnam
vi	Does the station have a material recovery facility (MRF) for segregation of dry waste into metals/Paper/Plastic/O	11 stations have MRF facility : Ajmer, Jaipur, Katihar, Chennai, Mysuru, New Delhi, Pune, Thiruvananthapuram, Trichy, Vadodara, Vishakapatnam
vii	Is the MRF engaged with recycling facility of recovered waste; If yes- please specify	3 stations have arrangement with recyclers- Jaipur, Pune & Mysore
e	Waste Disposal	
i	Does the station practice dumping of mixed waste (Yes/No)	10 stations are dumping mixed waste: Allahabad, Howrah, Hubali, Kacheguda, Sealdah, Thiruvananthapuram, Trichy, Vijayawada and Vizianagram
iii	Was open dumping of waste observed in and around station area (Y/N)	Open dumping is observed in Bhopal, Jabalpur and Thiruvananthapuram
iv	Was burning of waste observed in and around station areas (Y/N)	Observed in disposal yard at Trichy
7	Hazardous Waste Management:	
b	Mode of disposal of mixed waste	Details not provided by Lucknow. Others disposing as per norms
8	Plastic waste:	
a)&b	a) Has assessment of percentage plastic in total solid waste been made (Y/N) b) If yes - please specify	Assessed in 14 stations- Bilaspur, Dhanbad, Jhansi, Katihar, Lucknow, Ranchi, Trichy, Chennai, Mysuru, Delhi, Raipur, Vadodara, Vijayawada, Vishakhapatnam
c	Is Ban on <50 micron bags imposed (Y/N)	Not imposed in 4 stations: Delhi, Thiruvananthapuram, Raipur and Allahabad as reported. Confirmation requiring issue of executive orders to be provided
d	Is ban on single use plastics imposed (Y/N)	Not banned in 7 stations: New Delhi, Thiruvananthapuram, Bilaspur, Guwahati, Jhansi, Raipur and Howrah as reported. Confirmation requiring issue of executive orders to be provided
e	Does the station have crushing machine for plastic waste (Y/N)	5 stations have not installed Crushing machine- Jhansi, Manduadih, Chennai, Nasik and Vizianagram
f	Has end usage of Plastic from crushing machine planned (Y/N)	End use not planned Hubali, Jhansi, Katihar, Manduadih, Nasik, Sealdah, Varanasi, Vishakapatnam, Vizianagram

9	Noise monitoring	
a	Noise level monitoring at selected locations	Noise is exceeding the permissible levels in all the stations where noise levels were monitored
c	Have DG Sets been provided with acoustic enclosure and stack of adequate height (Y/N)	16 stations - Ajmer, Allahabad, Bhopal, Dhanbad, Howrah, Jabalpur, Jaipur, Jhansi, Katihar, Mumbai Central, Mysuru, Ranchi, Sealdah, Trichy, Vishakapatnam, Vizianagram have complied with requirement of acoustic enclosure and chimney. Three stations - Pune, Jodhpur and Chennai have not complied with these requirements. Remaining stations have partially complied with these requirements
d	Has good quality Public Address system been provided at the station	All stations have provided good quality PA system
10	Pollution control at Railway Sidings	Only one station Vijaywada has complied with all the measures to be taken for pollution control at the Railway Sidings. Eight stations- Delhi, Allahabad, Guwahati, Howrah, Jhansi, Nasik, Pune and Ranchi have partially complied with these requirements. Remaining stations do not have Railway Sidings
11	Energy Efficiency	
a	Have LED lightening system been provided at the station (Y/N)	All stations have provided LED Lightening system
b	Have Solar panels been provided to harness solar energy (Y/N)	6 stations - Delhi, Vijaywada, Katihar, Sealdah, Nasik & Ranchi have not provided Solar Panels to harness Solar energy
c	Have provision been made to harness wind energy (Y/N)	None of the stations have made provisions to harness wind energy
12	Miscellaneous	
a	Have CCTVs been provided to monitor environmental management related activities at the station (Y/N)	Two stations - Secunderabad & Kacheguda have not provided CCTV cameras. Remaining stations have provided the cameras
b	Has adequate green cover/afforestation I eco-park been provided in and around station area(Y/N)	Five stations - Ajmer, Allahabad, Nasik, Secunderabad and Thiruvananthapuram have not provided adequate green cover. Remaining stations have provided adequate Green cover as reported by the inspection team.

c	Was encroachment on railway land observed in and around station areas ? (Y/N)	Encroachment was observed at three stations- Bhopal, Jabalpur and Sealdah. No encroachment was reported in the remaining stations as reported by the inspection team.
d	Cleanliness level of tracks/ Platform (Good /Average/Poor)	As reported Cleanliness level was "average" in Bhopal, Jhansi and Mumbai and "Good" in the remaining stations
e	Does the station have mechanism for public grievance redressal	One station- Ranchi- does not have mechanism for public grievance redressal. Remaining stations have a mechanism to address the same
f	Has boundary wall /fencing been provided to prevent encroachment on railway land	Two stations - Allahabad and Ranchi - have not provided adequate boundary wall. Remaining stations have provided the wall
g	General passenger feedback (Positive/Negative/Neutral)	Passenger feed back neutral in Ranchi, New Delhi, Jhansi and Mumbai and positive in the remaining stations

As per information provided in Table 1 & 2, it is observed that 28 stations have achieved ISO 14001 certification. However, none of these stations have addressed all the major environmental issues, the most significant of which being obtaining Consents under Air (Prevention and Control of Pollution) Act 1974 and Authorisation under Hazardous Waste (Management & Transboundary Movement) Rules, from concerned SPCBs/PCCs.

CPCB has categorized these 36 stations based on the assessment made during inspection by awarding weightage to different environmental aspects covered in Annexure V. The details of the same are given in Annexure VII. The stations have been classified in different categories based overall scoring as per details in Annexure VII. The same is given in Table 3 Below.

- Classification of stations as Below Average, Average, Above Average and good has been given in Table 3 as follows:

“TABLE 3: CLASSIFICATION OF STATIONS AS PER CPCB'S INSPECTION REPORT

SI. No	Station	Category (<40- Below Average ; 40 — 50 — Average; 50 — 60 ; Above Average; > 60 —Good)
1	Jaipur	Good
2	Visakhapatnam	
3	Mysuru	
4	Vadodara	
5	Bilaspur	
6	Tiruchchirapali Jn	Above Average
7	Digha	
8	Dhanbad	
9	KATIHAR	
10	Raipur	
11	Pune	
12	Jabalpur	
13	Ajmer	
14	Jodhpur	
15	MGR Chennai Central	
16	Bhopal	Average
17	Guwahati	
18	Howrah	
19	Hubali	
20	Mumbai Central	
21	Thiruvananthapuram	
22	LucknowJn.	
23	Ranchi	
24	Varanasi	
25	Nasik Road	Below Average
26	Agra	
27	Jhansi	
28	Allahabad	
29	Secunderabad	
30	Kacheguda	
31	Rajender Nagar	Below Average
32	New Delhi	
33	Sealdah	
34	Vizianagaram	
35	Vijayawada	
36	Manduadih	

11. Recommendations of the CPCB are as follows:

“3.0 RECOMMENDATIONS:

The following are the recommendation based on the observations in Section 2.0 :

- (i) *Five stations(Vadodara, Mysuru, Jaipur, Bilaspur and Vishakhapatnam) are in the "Good" category and have achieved ISO 14001 certification, however as none of the stations has obtained Consents under Air (Prevention and Control of Pollution) Act 1981 & Water (Prevention and Control of Pollution) Act 1974 and Authorization under Hazardous Waste (Management & Transboundary Movement) Rules 2016 from concerned SPCBs/PCCs, it is recommended that none of the stations be certified "Eco Smart".*
- (ii) *Action Plan for the remaining 720 stations be revised by Railways as follows:*

*-To ensure that all environmental aspects as per **Annexure V** are covered.*

-The targets fixed should adequately address these environmental aspects and have verifiable indicators.”

12. The stand of the Railways is that railway stations are not required to obtain consent under the Water (Prevention and Control of Pollution) Act, 1974 (The Water Act), the Air (Prevention and Control of Pollution) Act, 1984 (The Air Act) and the Hazardous Materials Act, 2016(The Hazardous Act) in view of press release issued by the MoEF&CC on 05.03.2016. Railway activities are handled by different constituents as follows:

- “
- *Railway stations,*
 - *Railway offices,*
 - *Railway colonies,*
 - *Railway hospitals, schools,*
 - *Railway god shed/sidings,*
 - *Coaching depots,*
 - *General store depots,*
 - *Laundries*
 - *Workshops*
 - *Refurbishing workshops*
 - *Repair and maintenance sheds etc.”*

All such constituents have independent establishments, administration and activities and are governed by different rules based on their core activities.

13. Railway stations involve interchange of passengers and providing basic amenities for movement and stay at platforms. Regulatory environmental norms taken into account by CPCB are not relevant for the railway stations. No production/manufacturing industries activity takes place at railway stations and therefore the Water Act, the Air Act and the Hazardous Rules are not applicable.

V. Consideration of the reports and further directions:

14. We have heard Learned ASG for the Railway Administration and learned Counsel for the CPCB.
15. The report of the Railway Administration is to the effect that necessary initiatives have been taken for plastic and other waste management, preventing open defecation on railway tracks and discharge of waste on platforms and lines. Such initiative is also being taken for the remaining 683 major stations. While all such efforts may certainly be done, the report of CPCB classifying 36 stations where special initiative has been taken in the first instance to achieve ISO 14001 cannot be ignored. The report has classified 05 stations as good, 18 as above average, 05 as average and 08 as below average for the reasons given in the said report. The Railway Administration needs to look into the said reasons and take further remedial action.
16. Learned ASG on behalf of the Railway Administration has objected to the stand of the CPCB about the requirement for obtaining “Consent” under the Water and Air Act and “Authorization” under the Hazardous Management Rules, 2016. We are unable to accept this object. The basis of contention of learned ASG is the Notification

dated 05.03.2016 issued by the MoEF&CC on the subject of categorization of industries. We are unable to read the said Notification to mean that the railway stations or the activities of the Railway Administration do not attract the Air Act, the Water Act or the Environment (Protection) Act, 1986 (The EP Act). The fact that MoEF&CC has included railway activities in the list of some of the categories including 'red category' of industries is an indication that the MoEF&CC treats the Railway Administration to be within the purview of the EP Act as the said categorization itself is with reference to the said Act. Moreover, vide order dated 11.10.2019, while dealing with polluting activities at and around railway godown Faizabad, Uttar Pradesh, in the course of loading and unloading of cement, fertilizers and grains by trucks, this Tribunal *in O.A. No. 989/2018, Shivansh Pandey Vs. State of Uttar Pradesh* noted the observations of Public Accounts Committee of 16th Lok Sabha to the effect that Consent mechanism under the Water Act and the Air Act is applicable to the Railway Administration. The Tribunal observed as follows:

“8. The report of the Expert Committee filed by the Railway Board with its letter dated 26.09.2019 refers to the Public Accounts Committee of 16th Lok Sabha which noted that consent for operations from the SPCB was being obtained in 50% of the sidings, tests checked and specific guidelines were issued to the zonal railways for obtaining such consent. In view of default in the present case and possibility of similar defaults elsewhere, let the Railway Board ensure that its directions are complied and mandate of law is followed. Appropriate action be taken against the heads of the zonal offices concerned for defaults.

9. Apart from not following the requirement of taking requisite consents, the Railway Administration at Faizabad is not following the measures to be adopted at loading/unloading points. It can be inferred that at other locations of railway sidings and good sheds, there may be similar situation. This needs to be checked by an appropriate mechanism to be evolved by the Railway Board. The Additional DRM (Operations) Lucknow present before this Tribunal has made a statement that

necessary steps for enforcing the law and necessary safeguards will now be taken within one month. The officer may take the steps and file his report before this Tribunal and also before the Railway Board. The Railway Board may compile appropriate information with regard to other such locations and furnish a comprehensive report. The Railway Board may depute a suitable senior officer with the compliance report on the next date.”

17. We may now refer to the 38th Report of the Public Accounts Committee of 16th Lok Sabha dealing with the subject of Environment Management in Indian Railways Stations, Trains and Tracks based on C&AG Report No. 21 of 2012-13, Union Government (Railways) Performance Audit, relating to Ministry of Railways, wherein it was observed:-

“9. Air Pollution

Railway board had not issued any comprehensive guidelines specially for sidings, handling and transporting the pollution intensive commodities like coal, iron ore cement fertilizers, petroleum etc. Indian Railways has failed to substantive action to integrate environmental concerns with operational policies. It was recommended by the Committee to formulate a comprehensive environmental policy for controlling air pollution at stations and ensure regular and effective monitoring.²

12. Non compliance with statutory regulations

Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 clearly stipulates that all sidings and Railway Good sheds require Consent for Operation (CFO) from the SPCB. The CFO was obtained only in 55% of sidings test checked. Some of the Zonal Railways presumed that consent was not required for all sidings/ goods sheds. The Committee recommended that Ministry should prescribe concrete guidelines for operation of sidings/goods sheds which are to be adhered by the Zonal Railways.³

23. Effluent treatment

It was observed by the Committee that there was no system for monitoring quality and quantity of waste water at stations. ETP was not installed at major stations and in absence of ETPs, effluents were being discharged from major stations at low lying areas/water bodies and municipal drainage resulting in contamination of ground water.⁴

Other incidental issues

² Para9(Recommendation No.3)

³ Para 12 (Recommendation No.4 and 5)

⁴Para 23 (Recommendation No. 11)

The Committee had also recommended several incidental issue like:

- *Setting up of a separate housekeeping wing for maintaining cleanliness and sanitation at stations.*
- *Setting up of bio diesel plants*
- *Exploring and utilization of energy conservation resources*
- *Maintenance of bio toilets*
- ***Control of noise pollution near habitation/silent zones.”***

18. A look at the statutory scheme of the statutes in question shows that the stand of the Railway Administration is untenable. The Water Act was enacted in 1974 with a view to set up a regulatory framework to ensure that domestic and industrial effluents are not discharged into the water or seas without adequate treatment. The long title of the Water Act and “*Statements of Objects and Reasons*” make the objects of the statute clear. Broad scheme of the Water Act is to set up Central and State Boards which are assigned functions of preparing programmes for prevention and control of water pollution, provide penalties for contravention of preventions etc. Section 19 of the Water Act provides for restricting the application of the Act to certain areas. Section 20 of Water Act provides for power to obtain information, Section 21 is about power to take samples of effluents and procedure to be followed and Section 23 is with regard to power of entry and inspection. Section 24 prohibits use of stream or well for disposal of polluted mater. Section 25 provides for requirement of Consent from the State Boards to establish any industry, operation or process or any treatment and disposal or any extension or addition thereto which is system likely to discharge sewage or effluents into stream, well, sewer or on land. Rule 32 of the Water (Prevention and Control of Pollution) Rules, 1975 provides for the format for Application for Consent. Form – XIII “Application for Consent for Establishment or taking any steps for Establishment of

Industry/Operation/Process/or any Treatment Disposal System for Discharge, Continuation of Discharge under Section 25 or Section 26 of Water Act, 1974” lays down the columns which require giving of information relevant to determine the nature and extent of such discharge.

The Air Act is intended to provide for prevention, control and abatement of air pollution. On the pattern of the Water Act, Central and State Boards are assigned statutory duties to prepare programmes for prevention, control and abatement of air pollution. Section 19 provides for declaring air pollution control areas. Section 21 provides for requirement for Consent to Establish and Operate. Rule 9 of the Air (Prevention and Control of Pollution) Rules, 1983 prescribes Form-I “Application for Consent for Emission”/Continuation of Emission under Section 21 of the Air Act, 1981 for such application under which relevant particulars are mentioned.

Under the Water Act and the Air Act, there are statutory powers to issue appropriate directions to regulate and control of water and air pollution. Noise pollution is also regulated under the Air Act.

19. It is, thus, clear that wherever there is significant generation of solid and liquid waste and gaseous emissions, the Water Act and the Air Act are attracted so that regulatory functions can be exercised. There is every reason to presume that major railway stations (classified as such by the Railway Administration itself) are generating solid waste and discharging liquid waste water as well as releasing gaseous emissions unless shown to the contrary. Applying such test, it must

be held that such stations are governed by the regulatory regime of the Water Act and the Air Act, unless shown to the contrary. There cannot be any blanket exclusion of or exemption from the regulatory regime for such major railway stations. Thus, all major railway stations must secure Consent to Establish/Expansion and Consent to operate under the Water Act and the Air Act within three months failing which the State Board will take necessary action under the provisions of Water and Air Act in accordance with law.

The contention that restricted meaning should be given to the word 'industrial' under Section 21 of the Air Act is again untenable. In the context of the Air Act, industrial station is covered by the expression "industrial plant" under Section 21 of the Air Act as defined under Section 2(k) thereof. The object of the Act is to control air pollution and if air pollutants are emitted in atmosphere by activities at railway station, railway station cannot be excluded from such definition so as to avoid remedial measures for control of air pollution. Of course, if there is no scope for such emission, such railway station can be excluded depending upon potential of activities at such station. Major stations *prima facie* cannot be excluded. If any such claim is made that no such activity of emission of pollutants is taking place at any particular station, the same may be examined by the CPCB on the State Board/ PCC on its own merit

The object of the Water Act is to provide for the prevention and control of water pollution and maintaining or restoring of wholesomeness of water.

The provisions under Section 2 Defines: (d) "occupier"., (dd) "outlet"., (e) "pollution"., (g) "sewage effluents"., (j) "streams".,(k)

“trade effluent” etc. bring railway under the provisions of the Water Act, 1974.

Further, Section 24 Prohibits on use of stream or well for disposal of polluting matter etc.-

(1) Subject to the provisions of this section-

(a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any 21[Stream or well or sewer or on land]; or

(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely,-

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

PROVIDED that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.]

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

(4) The State Board may-

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being-

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or

premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order,

and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system or extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

empowers the Central Government to take measures to protect and improve the environment. Section 5 deals with power to give directions. Section 25 empowers the Central Government to frame Rules laying down standards for environment pollutants, safeguards for hazardous substances, manner of analysis of air, water and soil. The Rules framed under the said Act include solid waste, plastic waste, bio-medical waste, hazardous waste, C&D waste, e-waste Rules. Several activities take place at major railway stations which may attract provisions of the Rules. The said Rules have, thus, to be complied by all the major railway stations, to the extent applicable. The EP Act is an umbrella legislation which enables the Central Government to frame Rules on the subject of environment protection and to issue directions. Rules framed applied to every generator of waste and occupier of the place where waste is generated. Undoubtedly, the railway premises are such places. The Railway Administration is the occupier of such places where waste is generated.

As regards the judgment of the Bombay High Court in *Goa Foundation & Anr. V. The Konkan Railway Corporation*⁵ relied upon by the learned ASG observing that the expression 'industries, operations or processes etc.' cannot bring within its sweep the activities of providing a rail line and the provisions of the Environment Act have no application in respect of work undertaken in exercise of powers conferred under Section 11 of the Railway Act, 1989, we note that the judgement does not deal with setting up and operation of major railway stations. It is now well settled that environment norms have to be read into every regulatory statute even if the such statute is

⁵ AIR1992 Bom 471

subsequent to the environment laws⁶. Hon'ble Supreme Court has held that 'Sustainable Development' and 'Precautionary' principle are part of municipal laws of the country and have to be enforced by all courts and authorities.⁷ Judgement of Bombay High Court is of the year 1992 after which much water has flown under the bridges. It is difficult to accept that activities of railway establishments at major railway stations having potential of causing pollution are beyond the environmental laws of the land.

21. In view of above, let observations of the CPCB be taken into account in the process of implementation of action plans of the railways for all the major stations in the first instance. The team comprising of CPCB and concerned SPCBs/PCCs will evaluate the performance of major railway stations both in terms of implementation of action plans and compliance to the provisions of the Water Act, Air Act and Environmental Protection Act and Rules framed thereunder especially Solid Waste Management Rules, 2016; Plastic Waste Management Rules, 2016; Hazardous and other waste Rules, 2016, Bio-Medical Waste Rules, 2016, Construction and Demolition Waste Management Rules, 2016 before 31.03.2020 and file the action taken report by 15.04.2020.

The State PCBs/PCCs will file the report through CPCB with regard to compliance of Section 25 of water act 1974 and Section 21 of Air Act, 1981 of such railway station before 31.03.2020.

The SPCBs/PCCs of concerned 36 railway station report through CPCB on or before 31.03.2020 with regard to compliance to

⁶ 2006(3)SCC434

⁷ 1996(5)SCC647

its specific recommendations as given in Annexure VI of the CPCB report dated 03.12.2019. Further status report be filed by CPCB by 30.06.2020 by e-mail at judicial-ngt@gov.in.

22. The report filed on behalf of CAG is to the effect that necessary audit has been conducted but the same is to be placed before the Parliament and can be shared with this Tribunal confidentially. This aspect can be considered later.

List for further consideration on 20.07.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

December 12, 2019
Original Application No. 141/2014
DV

