

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

Original Application No. 989/2018

(With report dated 05.08.2019)

Shivansh Pandey

Applicant(s)

Versus

State of Uttar Pradesh

Respondent(s)

Date of hearing: 11.10.2019

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

For Applicant (s): None

For Respondent(s):

Mr. Om Prakash, Advocate for Railways with Mr. Amit Srivastav, ADRM (Operation) and Mr. Jagtosh, Sr. DCM for railways  
Mr. Daleep Dhyani, Advocate for UPPCB

**ORDER**

1. The question for consideration is the remedial action against pollution at and around Railway Godown, Faizabad, Uttar Pradesh in the course of loading and unloading of cement, fertilizers and grains by trucks, polluting the air quality and causing respiratory problems. Vide order dated 03.01.2019, the Uttar Pradesh Pollution Control Board (UPPCB) was required to furnish a factual and action taken report in the matter.
2. Vide order dated 29.08.2019, this Tribunal considered the report of the SPCB. The SPCB had issued directions to the Railways to construct a covered shed and to undertake sprinkling of water to

contain the air pollution, apart from adopting suitable safety norms in the course of loading/unloading. The Tribunal also noted that the Railway Board had failed to respond to the orders of this Tribunal. The General Manager, Northern Railways was required to furnish a compliance report.

3. A copy of response received from the Railway Board on 26.09.2019 has been placed for consideration which in turn refers to circular of the Railway Board dated 16.04.2018 issued to all the Zonal Railways for action to be taken with regard to handling of pollution intensive commodities at Sidings and Goods Sheds in accordance with the provisions of environmental law. The said letter refers to report of an Expert Committee which was constituted by the Railway Board which recommended as follows:

*“1. Keeping in view the statutory / legislative provisions*

- a) Wherever new siding/goods shed private freight Terminal/ any loading / unloading 'point is being developed / constructed; 'Consent to Establish' should be taken from State Pollution Control Board by the owner or the railway as the case may be in accordance with the provisions of State Pollution Control Board, keeping in view the notified areas / air pollution control areas and categorization of Industrial Sectors.*
- b) Wherever the sidings are existing, 'Consent to Operate"-Consent for Operation' should be obtained from State Pollution Control Board: by either owner or by the railway as the case may be in accordance with the provisions of State Pollution Control Board, keeping in view the notified areas / air pollution control areas and categorisation of Industrial Sectors.*
- c) Zonal Railways must be aware of Air Pollution Control Areas notified by respective SPCBs and ensure, compliance to applicable environmental legislations. Necessary clause may be incorporated in agreements of sidings. For railway owned sidings and goods sheds, the responsibility lies directly with the Railways.*
- d) In addition to air pollution, water pollution and noise pollution should also be taken care of depending upon the*

*extent of pollution and environmental impact for specific commodities and locations.*

2. *Some protective measures to be taken at loading/unloading points by the owner or railways as the case may be, are :*

- a) Paved approach roads with adequate traffic carrying capacity should be provided at each loading /unloading point. The existing, roads which are in bad condition should be repaired and maintained.*
- b) To. control dust pollution, water sprinkling system through mechanized system or tankers should be provided as per requirement. Proper wastewater/drainage system shall be provided at loading/unloading point as per requirement.*
- c) Appropriate green belt cover to be provided at the loading/unloading point to mitigate pollution.*
- d) Where necessary, the heavy loading and unloading traffic handling points to be provided with dust screen walls along periphery of the premises with adequate height.”*

4. The Committee also noted that consents are required to be taken under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.

5. In spite of the above stand of the Railway Board, the Divisional Commercial Manager, Northern Railway DRM Office, Lucknow is not shown to have taken requisite consents.

6. As per the report dated 05.08.2019 furnished by the SPCB, the railway goods siding, Ayodhya was creating air pollution and for damage to the air quality, compensation of Rs. 91.2 lacs was assessed as per applicable norms.

7. In view of above, it is established that there is violation of air quality norms by the railway goods siding, Ayodhya.

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 16<sup>th</sup> 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.
10. In the meanwhile, the SPCB may take steps for recovery of the assessed compensation and for enforcing the law, including prosecution.
11. A copy of this order be forwarded to the Chairman, Railway Board by email for compliance.

List for further consideration on 20.12.2019.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

October 11, 2019  
Original Application No. 989/2018  
DV

