



B-31013/71/2018-19/UPCD-I/

15250

SPEED POST and E-MAIL

January 24, 2019

To,

The General Manager,
Northern Railway HQ,
Baroda House,
New Delhi-110001

Sub: Directions under Section 31A of the Air (Prevention & Control of Pollution) Act, 1981 regarding illegal disposal of Construction and Demolition waste and open burning of waste onto Railway land near Shivaji Park Metro Station and near Madhipur village, Delhi.

WHEREAS, Section 16 (2) (b), (f) and (j) of the Air (Prevention & Control of Pollution) Act, 1981 mandates Central Pollution Control Board to execute nation-wide program for prevention, control and abatement of air pollution and organize a comprehensive program and perform such other functions as may be prescribed; and

WHEREAS, rising air pollution in Delhi during winter season is a matter of serious concern, especially with regard to high levels of particulate matter exceeding National Ambient Air Quality Standards, 2009; and

WHEREAS, regular review meetings were also convened during year 2016 and 2017 wherein instructions were issued to Construction Agencies/ Municipal Corporations to strengthen and tighten enforcement; and

WHEREAS, in pursuant to the Hon'ble Supreme Court's order dated December 02, 2016 in the matter of M. C. Mehta vs. Union of India regarding air quality in National Capital Region of Delhi, a Graded Response Action Plan was prepared for implementation under different Air Quality Index (AQI) categories namely, Moderate & Poor, Very Poor, Severe and Sever + as per National Air Quality Index, and, that Ministry of Environment, Forests & Climate Change vide notification dated January 12, 2017 entrusted responsibility of implementation of Graded Response Action Plan to Environment Pollution (Prevention & Control); and

WHEREAS, Hon'ble National Green Tribunal vide order dated December 18, 2017 and July 27, 2018 in OA No. 44/2018 Vardhman Kaushik Vs Union of India & Ors. finalized four categories in relation to pollution levels in ambient air in Delhi - NCR and specified actions for implementation by enforcement agencies under each category and submission of reports to CPCB; and

WHEREAS, a meeting was held with concerned stake holders under Chairmanship of Chairman, CPCB on August 30, 2018 to discuss status of preparedness for controlling air polluting sources during winters in Delhi NCR; and

WHEREAS, Ministry of Environment & Forests, Government of India, vide Notifications No. GSR 913 (E) dated 24.10.89, has delegated the powers vested under Section 5 of the Environment (Protection) Act, 1986 to the Chairman, Central Pollution Control Board, to issue directions to any industry or any local body or any other authority for violations of the standards and the rules notified under the Environmental (Protection) Rules, 1986 and amendment thereof; and

WHEREAS, considering winter season as critical with regard to air pollution, CPCB deployed 41 teams to visit areas in Delhi-NCR from September 15, 2018 to provide feedback on air polluting mitigation activities & level of implementation of Graded Response Action Plan; and

WHEREAS, Chairman, CPCB further reviewed status of sources of pollution and performance of enforcement agencies on October 11, 2018 and as per reported data of field inspections, open dumping/ burning of garbage and open dumping of C&D waste were reported as prominent activities towards generation of air pollution; and

WHEREAS, poor air quality affects health of people and it has been observed that actions taken by Construction Agencies/ Municipal Corporations/ Land Owning Agencies continue to be grossly inadequate in Delhi-NCR which amount to criminal negligence; and

WHEREAS, Ministry of Environment, Forest and Climate Change (MoEF&CC) has notified "Construction and Demolition Waste Management Rules, 2016" vide GSR 317(E); dated 29th March, 2016 henceforth known as the said rules; and

WHEREAS, in exercise of the powers conferred by sections 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government has made Environment (Protection) Amendment Rules, 2018 vide G.S.R. 94(E); dated 25th January, 2018; and

WHEREAS, in compliance of Rule 10 sub rule 1(a) of the said rules, CPCB has developed and published "Guidelines on Environmental Management of Construction & Demolition (C&D) Wastes" to promote an integrated approach towards reduction of environmental impacts; and

WHEREAS, the said rules, guidelines and dust mitigation measures available on the website of CPCB at the link: www.cpcb.nic.in; and

WHEREAS, joint inspection team comprising officials of CPCB , MoEF&CC, MCD ,DPCC and SDM Punjabi Bagh under Clean Air Campaign observed on November 01 2018 that C&D waste is dumped onto railway land near Shivaji Park Metro Station(Longitude-28.675 and Latitude-77.129) during November 01-05, 2018; and

WHEREAS, joint inspection team comprising officials of CPCB ,MoEF&CC, MCD ,DPCC and SDM Punjabi Bagh under Clean Air Campaign also observed on November 05, 2018 that C&D waste is dumped and other waste was burnt onto railway land at about 1 km distance near Madhipur village, Rohtak Road(Longitude-28.676 and Latitude-77.117) during November 01-05, 2018; and

WHEREAS, the above complaints had also been uploaded/lodged in SAMEER app vide complaint id- 911399 & 985251 on November 01 and November 05, 2018 respectively by the joint team but no corrective action had been taken in 48 hours by the Northern Railway; and

WHEREAS, in view of the above and in exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986, Show cause Notice was served to Northern Railway for levying of Environmental Compensation of Rs 1,00,00,000/- (Rs. One Crore only) and initiation of prosecution as per provision of the Environment (Protection) Act, 1986 and National Green Tribunal Act, 2010 for non-compliance of provision of C & D waste Management Rule 2016; and

WHEREAS, a reply dtd. 16.11.2018 was received from Northern Railway on 19.11.2018. The reply had been examined and following observations were made :

- i. The reply is too general in nature and no specific reply is furnished with regard to preventive action taken for disposal of C&D Waste and other types of wastes onto railway land near Shivaji Park Metro Station , New Delhi and Madhipur village, Rohtak Road(Longitude-28.676 and Latitude-77.117), Delhi .
- ii. The reply also lacks action taken report for collection of existing wastes lying onto railway land under question and its law-ful disposal to the designated place.
- iii. It is obvious that so far no corrective action has been taken in the matter and no action plan is submitted.
- iv. Rather, the NR has tried to shift its responsibility in the matter to nearby residents and Municipal Corporation .

WHEREAS, being the occupier of the land under question, it is the responsibility of Northern Railway for prevention of disposal of C&D Waste and other types of wastes onto its land by way of increased vigil, deployment of adequate nos. personnel and necessary barricading . It is also the duties of the Northern railway being the occupier of the land to keep the area well maintained as per guidelines prescribed from time to time under the environmental legislations; and

WHEREAS, in view of the above non-compliance and in exercise of the powers under section 31A of the Air (Prevention & Control of Pollution) Act, 1981 , Northern Railway was directed for the following :

1. Existing C&D Waste and other types of wastes presently lying onto railway land near Shivaji Park Metro Station , New Delhi and Madhipur village, Rohtak Road(Longitude-28.676 and Latitude-77.117), Delhi , be collected and disposed to the designated place within 7 days from the date of receipt of this direction.
2. Action Taken Report be submitted along-with necessary documentary evidences immediately after disposal of the wastes as mentioned in 1 above but within 10 days from the date of receipt of this direction.
3. Disposal of any kind of C&D Waste and other wastes onto its land in future be prevented by way of increased vigil, deployment of adequate nos. personnel and necessary barricading.
4. Any violation of this direction shall attract action under the provisions of the Air (Prevention & Control of Pollution) Act, 1981 and NGT Act, 2010 .

WHEREAS, in response to aforesaid directions, a reply is received from Northern Railway vide its letter dtd. 26.12.2018 . Its examination revealed following observations :

- a. Although claimed by NR for initiation of some measures but no results are visible on ground. Illegal dumping onto its land is continued.
- b. Instead of sending the existing C&D waste to authorized reprocessing facilities , the same is disposed-off on-to some other low lying area. This is simply shifting of sources of pollution from one place to another place.

WHEREAS, a team of Scientists from CPCB was deputed to verify the claims of NR and for an on the spot assessment of the situation on 26.12.2018. Observations are as follows:

- a. Large quantities of C&D wastes are still lying uncovered in an arbitrary manner onto railway land under question.
- b. No dust mitigation measures have been taken to control the air pollution.
- c. In additional to above, other types of wastes including MSW and plastic wastes are also being disposed onto that land.

WHEREAS, mean-while another matter is referred to CPCB by Nagar Nigam , Rohtak in context to repeated complaints lodged on Sameer App by the local inhabitants. This complaint is regarding air pollution created by NR during construction of elevated railway track adjacent to main road connecting Sheela by-pass to New bus stand, Rohtak (Haryana). A team of Scientists from CPCB was deputed to investigate the matter on 27.12.2018. Observations are as follows :

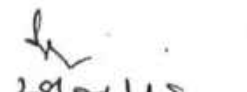
- a. No barriers / screens around work zone are provided to mitigate the dust emissions.
- b. The roads leading to work zone and also the inside roads including at storage yards are unpaved.
- c. Heaps of excavated soil are uncovered.
- d. No display boards on C&D Waste Management are provided.
- e. Overall C&D Waste Management is not satisfactory.

WHEREAS, from the above, it is obvious that NR has failed to comply with the provisions of the C&D Waste Management Rules, 2016 and directions of CPCB. This has resulted in deterioration of environmental quality and posed health hazard to the inhabitants of the area. Such a lackadaisical attitude of NR calls for its immediate prosecution and environmental compensation.

NOW, THEREFORE, in view of the above and in exercise of the powers under section 31A of the Air (Prevention & Control of Pollution) Act, 1981 , Northern Railway is hereby directed for the following :

1. Northern Railway shall pay an Environmental Compensation of Rs. 1,00,000 Crore only [Rs. One Crore only] to CPCB as per Environmental Compensation Policy framed in compliance of NGT order dtd 31.08.2018 in OA no. 593/2017, within 3 days from the date of receipt of these directions.
2. Existing C&D Waste and other types of wastes presently lying onto railway land near Shivaji Park Metro Station , New Delhi and Madhipur village, Rohtak Road(Longitude-28.676 and Latitude-77.117), Delhi , be collected and disposed-off to the designated place within 7 days from the date of receipt of this direction.
3. All the short-comings observed at construction site of elevated railway track adjacent to main road connecting Sheela by-pass to New bus stand, Rohtak (Haryana), as highlighted above shall be rectified within 7 days from the date of receipt of these directions.
4. Action Taken Report be submitted along-with necessary documentary evidences immediately after disposal of the wastes as mentioned in 2 above but within 10 days from the date of receipt of this direction.
5. Disposal of any kind of C&D Waste and other wastes onto its land in future be prevented by way of increased vigil, deployment of adequate nos. personnel and necessary barricading.

Any violation of this direction shall attract appropriate action including prosecution under the provisions of the Air (Prevention & Control of Pollution) Act, 1981 and NGT Act, 2010 .


29/01/19
(S.P.S Parihar)
Chairman

Copy to:

1. The Chairman Railway Board,
Rail Bhavan
Raisina Road,
New Delhi - 110001

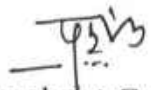
:for information please

2. The Joint Secretary,
CP Division,
Ministry of Environment, Forests and Climate Change,
Indira Prayavaran Bhawan, Jorbagh Road,
New Delhi - 110 003

:for information please

✓ 3. Divisional Head, IT Division, CPCB, Delhi

4. Divisional Head, UPC-I, CPCB, Delhi


(Prashant Gargava)
Member Secretary

