

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

**Original Application No.143/2024(CZ)
(I.A. No.37/2025 & I.A. No.78/2025)**

IN THE MATTER OF:

JODHPURA SANGHARSH SAMITI,
Through Authorized Representative
Kailash Chand Yadhav,
R/o at Outside Road, Village-Mohanpura (Jodhpura),
Tehsil Kotputli, Jaipur, Rajasthan,

Applicant(s)

Versus

- 1. UNION OF INDIA,**
Through the Secretary,
Ministry of Environment Forest and
Climate Change,
CGO Complex, Lodhi Road, New
Delhi,

Respondent No. 01
- 2. STATE OF RAJASTHAN,**
Through Chief Secretary,
Government of Rajasthan,
Secretariat, Jaipur,

Respondent No. 02
- 3. DEPARTMENT OF MINES AND
GEOLOGY, STATE OF RAJASTHAN**
Through the Secretary, Mines and
Petroleum, University Road, Ashok
Nagar, Udaipur, Rajasthan,

Respondent No. 03
- 4. RAJASTHAN STATE POLLUTION
CONTROL BOARD,**
Through its Member Secretary,
4, Jhalana Institutional Area,
Jhalana Doongri, Jaipur, Rajasthan,

Respondent No.04
- 5. DISTRICT MAGISTRATE,
KOTPUTLI,**
Khanij Bhawan, Udhog Bhawan
Tilak Marg, Jaipur,

Respondent No.05

6.

DIRECTORATE GENERAL OF MINES SAFETY (DGMS),
Through the Director,
Ihamarkotra Main Road,
Hiranmagri, Sector -6, Udaipur,
Rajasthan- 313002,

Respondent No.06

7.

CENTRAL POLLUTION CONTROL BOARD (CPCB)
Through the Chairman, Parivesh
Bhawan, East Arjun Nagar, New
Delhi

Respondent No.07

8.

M/S ULTRA TECH CEMENT LTD.
Through its Director,
Ahura Centre, 1st Floor, 'A' wing,
Mahakali, Caves Road Andheri (E),
Mumbai,

Respondent No.08
- With**
Original Application No.144/2024(CZ)
(I.A. No.79/2025)
- IN THE MATTER OF:**
- JODHPURA SANGHARSH SAMITI,**
Through Authorized Representative
Kailash Chand Yadhav,
R/o at Outside Road, Village-Mohanpura (Jodhpura),
Tehsil Kotputli, Jaipur, Rajasthan,

Applicant(s)
- Versus**
1.

UNION OF INDIA,
Through the Secretary,
Ministry of Environment Forest and
Climate Change,
CGO Complex, Lodhi Road, New
Delhi,

Respondent No. 01

2.

STATE OF RAJASTHAN,
Through Chief Secretary,
Government of Rajasthan,
Secretariat, Jaipur,

Respondent No. 02

2

O.A. No.143/2024(CZ) with
O.A. No.144/2024(CZ)

Jodhpura Sangharsh Samiti Vs. Union of India & Ors.

3. **DEPARTMENT OF MINES AND GEOLOGY, STATE OF RAJASTHAN**
Through the Secretary, Mines and Petroleum, University Road, Ashok Nagar, Udaipur, Rajasthan, Respondent No. 03

4. **RAJASTHAN STATE POLLUTION CONTROL BOARD,**
Through its Member Secretary, 4, Jhalana Institutional Area, Jhalana Doongri, Jaipur, Rajasthan, Respondent No.04

5. **DISTRICT MAGISTRATE, KOTPUTLI,**
Khanij Bhawan, Udhyog Bhawan Tilak Marg, Jaipur, Respondent No.05

6. **DIRECTORATE GENERAL OF MINES SAFETY (DGMS),**
Through the Director, Ihamarkotra Main Road, Hiranmagri, Sector -6, Udaipur, Rajasthan- 313002, Respondent No.06

7. **CENTRAL POLLUTION CONTROL BOARD (CPCB)**
Through the Chairman, Parivesh Bhawan, East Arjun Nagar, New Delhi Respondent No.07

8. **PUBLIC HEALTH DEPARTMENT, JAIPUR,**
Through Chief Medical Officer Tehsil Kotputli, District Jaipur Rajasthan, Respondent No.08

9. **M/S ULTRA TECH CEMENT LTD.**
Through its Director, Ahura Centre, 1st Floor, 'A' wing, Mahakali, Caves Road Andheri (E), Mumbai, Respondent No.09

COUNSELS FOR APPLICANT(S):

Mr. Rahul Choudhary, Adv.

COUNSELS FOR RESPONDENT(S):

Dr. Sapna Aggarwal, Adv. for MoEF & CC
Mr. Shoeb Hasan Khan, Adv. for R-5
Mr. Om Shankar Shrivastava, Adv. for R-6
Mr. Yadvendra Yadav, Adv. for R-7
Mr. Rajat Jariwal, Adv. with Ms. Anushka Awasthi, Adv. for R-8 &
For R-9 in O.A. No.144/2024
Mr. Rohit Sharma, Adv. for RSPCB

CORAM:

HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER

Date of completion of hearing and reserving of order : 16.10.2025

Date of uploading of order on website : 03.11.2025

JUDGMENT

1. Issue raised in these applications are common against the same Project Proponent, thus are taken together.

A. Original Application No.143/2024(CZ):

2. By means of filing this application under section 14 and 15 of the National Green Tribunal Act, 2010, the Applicant has raised substantial question relating to the environment arising out of the limestone mines in Jodhpura Village Kotputli, Jaipur (Rajasthan) in violation of environmental rules on following grounds:-

“i. The operation of limestone mine (10.50 MTPA) with crusher (capacity of 1600 TPH) by M/s Ultra Tech Cement Limited in village, Jodhpura, Tehsil Kotputli, District Jaipur Rajasthan is undertaken in complete non-compliance of the conditions of the Environment Clearance and the consent condition.

ii. The operation of limestone mining activities violated the conditions relating to air pollution, thereby increasing the concentration of PM19 and PM2.5 in the atmosphere.

iii. *The people in the area are affected and suffering from diseases such as asthma, eye problem, pneumoconiosis disease, hearing problem and skin diseases etc.*

iv. *The operation of the limestone mining activities violated the conditions relating to ground vibrations by undertaking uncontrollable and unscientific blasting at close proximity to human habitation and government schools. This resulted in the formation of cracks in the walls of government school, Jodhpura where children of villagers are studying causing a threat to lives.*

v. *The limestone mining with crushers failed to monitor the groundwater level which resulted in severe depletion of groundwater which in turn made the nearby villages bore wells non-functional in area of Kotputli which is over exploited area and thereby is severely burdened by the mining activities of the project proponent and he failed to undertake adequate plantation activities around the plant boundary.*

vi. *Establishing stone crushers within 1.5km from the abadi village and 500 mtrs. From the place of school is detrimental to the life and property of the children studying in the school and is against the right of habitants to clean environment which is an integral part of right to life under Article 21 enshrined in the Constitution of India.”*

3. The Applicant has prayed to direct the Respondent No.8, Project Proponent, to comply the conditions of the Environmental Clearance and not to operate without compliance of conditions in violation of environmental rules and that Director General of Mines be directed to take action against the violating units and the reasonable compensation should be awarded to the aggrieved.

B. Original Application No.144/2024(CZ):

4. This application has been filed with the prayer as follows:-

i. *Direct the government of Rajasthan to undertake measures to rehabilitate the victims of pollution away from the proximity of limestone mining with crushers.*

ii. Direct the Rajasthan State pollution Control Board to formulate a joint committee to compute compensation to be paid to the villages of Jodhpura on account of the damage suffered for health.

iii. Direct the Rajasthan State Pollution Control Board to compute compensation to be paid to the villagers of Jodhpura to undertake restitution of damage caused to the residential houses until complete rehabilitation is undertaken by the State Government.

iv. Impose liability upon the Department of Mines and Geology, State of Rajasthan, District Magistrate Kotputli, Director General of Mines Safety (DGMS) for failure to protect the Right to life of the members of the Applicant Organisation.

v. Direct the State of Rajasthan to recover the expenses incurred while undertaking rehabilitation from the project proponent as per clause (f) of Schedule II of the NGT Act, 2010.

vi. Direct the Rajasthan State Pollution Control Board and Directorate General of Mines Safety (DGMS) to take action against the Respondent no.9 i.e. M/s Ultra Tech Cement Ltd for undertaking the operation of limestone mines with crushers in detrimental to life, property and environment of the members of the Applicant Organisation.

vii. Direct M/s Ultra Tech cements Ltd to undertake health camps in the village of Jodhpura and to bear medical expenses for the villages contracted with respiratory, skin, eye diseases.

viii. A minimum of 1.5 Km i.e. 1500m be declared as prohibited zone for the establishment of any stone crushers from the Abadi village and 500mtrs from school.”

5. The contention of the Applicant is that the location and proximity of limestone mines are impacting the physical structure and causing damage to the houses of the Applicant's. The report of the Public Works Department has confirmed the damage occurred to the households and further that it has damaged the primary government school Kotputli, which is threatening lives and study of 112 children's studying there. The

violation of environmental conditions impacted on air quality of village Jodhpura, deteriorating the region. The mining activities are intersecting with the ground water table resulting the further depleting the water table and interjection is causing contamination of the ground water. Crusher no. 2 is in violation of guidelines issued by Rajasthan State Pollution Control Board and the directions issued by the courts.

6. In both the matters notices were issued to the Respondents to file the reply. Accordingly, replies have been filed.
7. During the course of hearing, a Joint Committee was constituted consisting; One representative from the Chief Secretary, State of Rajasthan, (Rajasthan) having sufficient knowledge in the field of environmental or mining, one representative from the Member Secretary, Rajasthan State Pollution Control Board, (Rajasthan), one representative from the Director General of Mines and Safety, State of Rajasthan, (Rajasthan), and one Representative from the Central Pollution Control Board, (Rajasthan), to submit the factual and action taken report.
8. Heard the learned Counsel for the parties and perused the records.
9. Submissions of the learned Counsel for the Applicant are that the Applicant is aggrieved and affected by operation of limestone mine and the crusher in gross violation of conditions imposed through the Environmental Clearance dated 17.08.2006, 30.04.2010 and 16.01.2023. It is stated that The Project Proponent is also violating the conditions contained in 'Consent to Operate' granted by Pollution Control Board and the operation of limestone mines is situated at proximity of 232mtrs from the human habitation and the crushers are located at just 82 mtrs from the Government Primary School, Kotputli. The following table shows the conditions of EC non-complied by the project proponent:-

Condition	EC dated	Condition no:
Conditions relating to control of air pollution	16.01.2023	Specific condition no. (iv),(x), standard conditions 10 and condition no. II(8)
Conditions relating to ground vibrations and blasting	16.01.2023	Specific condition no: (iv) and standard condition no (IV) (18)
	17.08.2006 (Primary EC)	: <i>A Specific condition (xiii) and (xix)</i>
Conditions relating to groundwater	30.04.2010	<i>Specific Condition (xiii)</i>
Conditions relating to green belt	16.01.2023	<i>specific conditions (xiii), Standard Conditions (VIII)(29),</i>
Conditions relating to dumping of waste	16.01.2023	Standard conditions V (21) and VI (23)

10. It is stated that the Village - Jodhpura falls within the mine lease area 548.78ha and is part of revenue village Mohanpura and the part of Mohanpura was rehabilitated but the other part village Jodhpura was not rehabilitated and the Jodhpura part still remains inside the mining lease area and is severely suffering, the operation of limestone mines with two crushers work in close proximity to the village of Jodhpura. The following table shows the distance of limestone mines and crushers from human habitation and Government Primary School, Kotputli:

Activity	Place	Minimum Distance
Limestone mine	Habitation	232mtrs
	Government Primary School	Less than 300mts
Crusher no.1	Habitation	286mtrs
Crusher no.2	Habitation	110-165mtrs
	Government Primary School	82mtr

11. It is further argued that the mine lease area for the project was originally granted to M/s Rajasthan State Industrial Development and Investment Corporation Limited (RICO) in 1984 and subsequently transferred to M/s Grasim Industries Limited (GIL) on 08.03.2002. Thereafter, vide letter dated 26.07.2018, the mining lease was transferred to M/s Ultra Tech Cements Ltd. by increasing the production capacity and keeping the previous environmental clearance conditions the same. The following table shows the expansion and its capacity undertaken by the project proponent over the period:

EC Dated	Proposal No.	Granted to	Capacity
17.08.2006	IA/RJ/MIN/11226/2005	M/s Grasim Industries Limited- Environment Clearance	4million TPA
30.04.2010	J-11015/350/2008-IA.II(M)	M/s Grasim Industries Limited- Expansion Environment clearance	4 million tones per annum to 6 million TPA
16.01.2023	J-11015/350/2008-IA.II(M)	M/s Ultra Tech Cement Limited- Expansion Environment Clearance	6.0 MTPA to 10.50 MTPA, 5.72 MTPA Waste Rock, 0.53 MTPA clay/subsoil and 0.05MTPA, Top Soil generation with existing crusher capacity of 1600 TPH

12. Further submissions of the learned Counsel for the Applicant with regard to air pollution are that as per the EC condition dated 16.01.2023 the specific condition no. (iv), (x), standard conditions 10 and Condition No. II(8) stated that the Project Proponent shall monitor the fugitive emissions and measures shall be taken to suppress the dust arising from the mining activities. It states as follows:

“A.SPECIFIC CONDITIONS

x. The air pollution control equipment's like bag filters, vacuum suction hoods, dry fogging systems etc. shall be installed at crushers, and other areas prone to air pollution. PP shall take necessary measures to avoid generation of fugitive dust emissions.

B. Standard conditions

II. Air Quality monitoring and preservation

10) Effective safeguard measures for prevention of dust generation and subsequent suppression(like regular water sprinkling, metalled road construction etc.) shall be carried out in areas prone to air pollution wherein high levels of PM10 and PM2.5 are evident such as haul road, loading and unloading point and transfer points. The Fugitive dust emissions from all sources shall be regularly controlled by the installation of required equipment/ machineries and preventive maintenance. The use of suitable water-soluble chemical dust-suppressing agents may be explored for better effectiveness of dust control systems. It shall be ensured that air pollution levels conform to the standards prescribed by the MOEFCC/Central Pollution Control Board.

VII. Transportation

28) The main haulage road within the mine lease should be provided with a permanent water sprinkling arrangement for dust suppression. Other roads within the mine lease should be wetted regularly with tanker-mounted water sprinkling system. The other areas of dust generation like the crushing zone, material transfer points, material yards etc. should invariably be provided with dust suppression arrangements. The air pollution control equipment's like bag filters, vacuum suction hoods, dry fogging system shall be installed at crushers, belt conveyors and other areas prone to air pollution. The belt conveyor should be fully covered to avoid generation of dust while transportation. PP shall take necessary measures to avoid generation of fugitive dust emissions.”

13. It is further argued that there is no pollution control equipment's like - bag filters, vacuum suction hoods, properly available in the limestone mine or the crusher area which are essential to avoid generation of fugitive emissions thereby violating Condition No.x of the EC conditions.

Further, no water sprinkling measure is undertaken regularly to suppress the dust arising from the limestone mines as a result of which there an increase in air pollution levels is therefore violating the specific Condition No.10. As per condition VII(28) the other areas of dust generations like the crushing zone, has to have dust suppressions arrangements. However, the Applicant submits that no such measures are undertaken by the Project Proponent. It is stated that the fact that the activities of the project proponent are causing large scale air pollution can be verified by the data available on the website of Rajasthan State Pollution Control Board, under the OCEMS historical data (https://rspcboms.environment.rajasthan.gov.in/rspcb/RSPCB_ONLINE/). The historical OCEMS data of particulate matter PM₁₀ and PM_{2.5} for an average 24hrs was available in the website, which the Applicant perused for the following time periods and found as follows:

Time period	Highest emission rate	Date of highest emission
19.01.2021 to 31.012021	PM10- 243.21	29.01.2021
	PM2.5- 118.22	19.01.2021
01.01.2024 to 29.02.2024	PM10- 202.34	16.02.2024
	PM2.5- 310.02	24.02.2024
01.03.2024 to 30.04.2024	PM 10- 279.29	14.04.2024
	PM 2.5- 68.14	14.04.2024

14. It is further stated that on 29.02.2024, the PM_{2.5} data has shown exponential increase to 310.02 and on 14.04.2024, the PM₁₀ data was found to be 279.29. It is pertinent to note that the permissible average 24hrs of PM₁₀ is 100 and the PM_{2.5} is 60 as per the National Ambient Air Quality Monitoring Standards (NAAQMS) and the prolonged exposure to

the particulate matter at such high levels is very harmful to the human body and can cause severe health impacts. It is stated that the failure of Project Proponent to comply with the conditions of abatement of air pollution have led to the increase in the air pollution in the area of Jodhpura which has severely impacted the health of the villagers of Jodhpura. It is stated that upon receiving complaints from the members of the Applicant Organisation regarding the heavy blasting, a committee was formed under the chairmanship of Sub-divisional Officer, Kotputli, to undertake in-depth investigation and a meeting was held with all the members of the committee on 29.01.2024, and the reports received is recorded in the letter dated 22.03.2024. The Chief Medical Officer, BDM District Hospital, Kotputli reported details about the number of people contracted with various diseases potentially due to the impact of fugitive dust emissions. The report suggests that 53 people were diagnosed with eczema and allergy in the skin, and 21 was contracted with allergic conjunctivitis. Further, 30 of the villagers screened had hearing and ticking sounds coming from the ears possibly due to regular hearing of blasting sounds. It is stated that further the "People's Committee Report" published in 2023 annexed herewith as Annexure A9 states that a health camp was undertaken on 27.03.2023 by Senior medical officer of the Community Health Centre and it was found that out of 207 villagers of Jodhpura, 36 residents were suffering from respiratory diseases, 51 residents had contracted with skin diseases and 12 residents were found to have diseases related to eyes. Further, another survey was conducted from 13.04.2023 to 18.04.2023 encompassing 236 households, to assess the public health situation. Out of 928 individual surveyed, it was found that 478 individuals reported multiple health issues, including skin

diseases, breathing problems, itchiness in the eyes, hearing problems, tuberculosis etc.

15. A report was called by the District Magistrate, Kotputli, and he has filed the reply. Learned Counsel for the Respondent No.5, Mr. Shoeb H. Khan, Standing Counsel for the State of Rajasthan, has argued that during a joint inspection conducted by the Regional Office, District Alwar, on 09.07.2024, it was observed that adequate air pollution control measures had been implemented at the limestone crusher (Line-II). These measures include the installation of a dust collector (Pulse Jet Type Baghouse), full enclosure of the crusher unit, water sprinkling arrangements, and covered conveyor belts. Additionally, a six-foot boundary wall has been constructed around the crusher premises, along with a 26-foot high air barrier shed extending over a length of 252 meters towards the populated area. To further mitigate environmental impact, a significant number of trees have been planted near the unit and along the premises wall. It is further submitted that the limestone crusher unit adheres to the provisions of the Environment (Protection) Act, 1986, and the applicable norms set by the RSPCB. Fugitive emissions from the unit were monitored on 09.07.2024, with an analysis showing a concentration of $513\mu\text{g}/\text{m}^3$, which is well within the permissible limits prescribed by the relevant standards. It is stated that the land acquisition award pertaining to the rehabilitation of Village Jodhpura has not yet been issued at the state government level. The matter falls under the jurisdiction and purview of the State Government. It is, however, stated that as per the report dated 22.02.2024 received from the Superintending Engineer, Public Works Department, Circle Kotputli, most of the houses in Village Jodhpura are 40 to 60 years old, with some being newly constructed. In

older houses, primarily built using materials such as lime, minor cracks are commonly observed due to natural aging, continuous temperature fluctuations in the environment, or occasional vibrations caused by blasting activities. It is further stated that as per the reports dated 29.02.2024, 20.03.2024 and 15.05.2024 received from the Director of Mine Safety, Ajmer Region-1, permission for controlled deep-hole blasting was issued through the Directorate's letter no. 360971/NWZ/Ajmer Region1/Perm/2023/258045 dated 20.10.2023. In accordance with this permission, blasting activities are permitted up to a distance of 100meters from residential structures. A trial blasting was conducted at a distance of 320 meters from surface structures, during which no earthquake-like vibrations were detected. The complaint regarding stones bouncing and reaching residential areas during the trial blasting has been found to be baseless, as per the report of the Directorate. Furthermore, a noise pollution survey conducted on 14.05.2024 in response to complaints outlined in the memorandum revealed that the maximum recorded noise level was 68.3 dB(A), significantly below the permissible danger limit of 90 dB(A). Accordingly, it can be concluded that the noise generated by the factory poses no threat to the residents of Mohanpura-Jodhpura. It is also stated that additionally, the letter dated 01.02.2024 received from Chief Medical Officer, Government BDM District Hospital Kotputli, reveals that 61 patients were screened by the skin specialist in which 53 possible cases of eczema and allergy, fungal infection-02, pimples-04, scabies- 01, hair fall-01 etc. were found. 59 patients were screened by the eye specialist, in which 12 were found to have near and farsightedness problems, 13 cataract and 13 operated cataracts, the remaining 21 patients were found to be related to allergic

conjunctivitis. Allergic conjunctivitis cases may be caused by pollution. 49 patients were screened by the medicine specialist, in which 12 were found to have COPD, 02 heart disease, 03 hypertension with breathing problems and the remaining patients were found to have allergy. Allergy patients may be caused by pollution. 30 patients were screened by an ENT specialist, in which the patients reported hearing loss and ticking sound in their ears. If a patient lives in an industrial area for along time, he is likely to suffer from this problem. It is further stated that during a site inspection, it was observed that the nearest inhabited house is located approximately 400 meters from the blasting mining pit within the lease area. The leaseholder company is conducting all mining and blasting activities strictly within the approved lease area. The company has also obtained permissions for the use of heavy machinery and deep-hole blasting from the Directorate General of Mine Safety, Ajmer, via a letter dated 28.06.2023, and for blasting activities at a distance of 100 meters from public places through another letter dated 20.10.2023.

16. In reply to the above contentions, the learned Counsel for the Project Proponent, Respondent No.8, has submitted that the limestone mine is operated in strict compliance of the conditions of Environmental Clearance and that prior to grant of Environmental Clearance for expansion of limestone, an inspection was done and after satisfying the compliance of the then EC conditions, the EC for expansion was granted.
17. It is further submitted that the compliance of the Respondent with the conditions of the EC pertaining to air pollution mitigation measures, the location and operation of its mine and stone crushers have also been confirmed to be in consonance with law by two reports drawn up by the RSPCB at the instance of the SDM, Kotputli. The said reports were called

for in view of the repeated complaints of the villagers. Thus, the SDM had constituted a Joint Committee comprising of the representatives of RSPCB, Indian Bureau of Mines ("IBM"), etc. The Reports of the Joint Inspection Committee dated 17th May 2024 and 15th July 2024 clearly states the following in respect of the Unit:-

(a) The consents and clearances issued to the Unit comply with the applicable guidelines issued by the RSPCB. Further, the establishment of the Unit is in no manner in violation of any guidelines by the RSPCB.

(b) The Unit is taking adequate preventive measures to suppress dust emission and air pollution, including water sprinkling, covered conveyor belts, deployment of dust collection bags, building high walls around the crusher plant, green belt enhancement and plantation around the plant, etc.

18. It is further submitted that in the Original Application, with respect to air pollution, it is alleged that specific condition numbers (iv) and (x) of the EC and the standard condition numbers 10, II (9) (sic) of the EC have been violated. All the aforesaid conditions stand fully complied, as demonstrated below:-

"(a) Specific condition number (iv) and Standard Condition number II (9): The Answering Respondent is required to monitor air quality, noise level and ground vibration during drilling and blasting at the edge of the mine, near the village, crusher and at other sensitive receptors and such collected data is required to be submitted quarterly to the Integrated Regional Office of the concerned Ministry. Further, the Answering Respondent must install a minimum of three Ambient Air Quality Monitoring Stations ("AAQMS")."

Compliance:-

- The Answering Respondent has installed 04 CAAQMS stations in the mining area, as also required in terms of specific condition number (v) of the EC.*

- 2 CAAQMS stations have been installed in the upwind direction and 2 CAAQMS 2 have been installed in the downwind direction based on long-term climatological data about wind direction.
- The CAAQMS have been placed so to ensure that an angle of 120 degrees is maintained between the monitoring locations to monitor critical parameters that are relevant for mining operations and to monitor air pollution, specifically parameters of PM10, PM2.5, NO2, CO2, SO2, etc. The aforesaid is also in accordance with condition no. II (9) of the EC and the National Ambient Air Quality Standards Notification dated 18 November 2009.
- As required under the EC, a real-time display of air emission parameters is also put up on an LED board at the entry and exit gates of the mine lease area and the same are auto-linked to the RSPCB server.
- The Answering Respondent has also engaged NABL accredited, and MoEF & CC approved third-party laboratory for regular monitoring of air, water and noise pollution. Furthermore, RSPCB also undertakes regular monitoring of the operations of the limestone mines and crushers. The latest monitoring reports for the month of May to July 2024 indicate that air emissions are well within the prescribed standards.
- Besides, regular noise and vibration monitoring is conducted near the village, crusher and at other sensitive receptors during blasting.
- It must be noted that the data annexed by the Applicant shows that levels of air emissions exceeded the permissible levels for a few days by a small margin only in the period of April-May 2024. The months of April to May in the dry and arid region of Kotputli are susceptible to heavy and gusty winds that carry dust and particulate matter with them. Further, the heat from April to May 2024 aggravates the problem. Hence, the marginal exceeding of the particulate matters in the months of April-May 2024 is entirely attributable to climatic conditions. It is submitted that the air quality and parameters during normal weather conditions are always within prescribed limits. With the production levels remaining constant, the CAAQMS data for the months of June-July 2024 show that the pollution levels are within prescribed limits.

(b) Specific condition number (x): The Answering Respondent is required to install pollution control equipment in areas prone to air

pollution. Further, it is required to take necessary measures to avoid the generation of fugitive dust emissions. Additionally, the Answering Respondent is also required to undertake dense plantation in the vicinity of the crusher and perform stack emission monitoring of the crusher at periodic intervals.

Compliance:

- The Answering Respondent has duly installed air pollution control equipment such as (i) bag house, (ii) bag filters, (iii) water sprinkler systems, (iv) wind-breaking wall and (v) fog cannon machines in accordance with the conditions of the EC and the CTOs and to the satisfaction of the relevant authorities.*
- A wind-breaking wall of 26 feet has also been constructed along the periphery of the crusher towards village Jodhpura.*
- Wild allegations raised in the OA claiming emissions in violation of norms are baseless and frivolous. It is worth mentioning here that the Answering Respondent's Unit in Kotputli is amongst the most modern plants in India with state of the art infrastructure and technology. Considerable investment to the tune of INR 50 Crores has been made by the Answering Respondent towards the installation of such pollution control equipment to control fugitive emissions.*

(c) Standard condition number 10: *The Answering Respondent is required to ensure effective safeguards have been taken to arrest fugitive dust emissions in all pollution-prone areas. In furtherance thereof, it must be ensured that the air pollution levels conform to the standards prescribed by the MoEF & CC and the Central Pollution Control Board ("CPCB").*

Compliance:

- To control dust emissions during the unloading of limestone at the crusher, double layer covering with rubber pads have been provided on all sides.*
- Further, a permanent water sprinkling system through automatic spray nozzles has been installed at the crusher. Thus, whenever a dumper truck unloads limestone into the crusher, the water sprays start spraying water and suppress emissions.*

- *A bag house has also been provided at the limestone crusher along with bag filters at all transfer points and screening areas for control of dust emissions.*
- *Notably, the hoppers and the conveyor belts are duly covered to prevent any fugitive emissions and release of particulate matter in the environment.*
- *Furthermore, water tankers fitted with water sprinkling equipment are deployed to ensure regular sprinkling of water for dust suppression at mine pits, haul roads, loading and unloading points, etc. The ambient air quality, resultantly, is well within the prescribed norms.”*

19. Second ground which has been raised by the learned Counsel for the Applicant is with regard to ground vibration and blasting. It is argued that the specific conditions of the EC dated 16.01.2023 (iv) and standard condition (IV) (18) stated that the Project Proponent shall monitor the ground vibrations during drilling and blasting.

A. SPECIFIC CONDITIONS

iv. The project proponent shall continue to monitor the air quality, noise level and ground vibration during drilling and blasting at the edge of the mine, near the village, crusher and at other sensitive receptors and such collected data shall be submitted quarterly to the Ministry's Integrated Regional office.

B. STANDARD CONDITIONS

IV. Noise and vibration monitoring and prevention

18) the peak particle velocity at 500m distance or within the nearest habitation, whichever is closer shall be monitored periodically as per applicable DGMS guidelines.

Further the EC dated 17.08.2006 (Primary EC), condition no: A Specific condition (xiii) and (xix) also clearly state about controlled blasting

xvii) Controlled blasting shall be practised. The mitigative measures for control of ground vibrations and to arrest fly rocks and boulders should be implemented. (xix) the project proponent shall take all mitigative measures during the mining operation to ensure that the

buildings/structures in the nearby areas shall not be affected due to blasting.”

20. It is stated that as per the knowledge of the Applicant no proper monitoring of air quality, noise level or ground vibrations is being monitored on regular basis near the edge of the mine, crusher, thereby violating the specific condition iv. No controlled blasting is practised as per the EC conditions xiii and xix by the project proponent. It is submitted by the Applicant that uncontrollable and untimely blasting activities are undertaken by the project proponent in the limestone mines. Often the blasting activities are undertaken at night times, creating fear and panic among the children and residents during their sleep, therefore violating the condition xvii of the EC dated 17.08.2006. It is stated that the condition no. xix stipulate that the project proponent shall take mitigative measures during the mining operation to ensure that the buildings/structures in the nearby areas shall not be affected due to the blasting activities, however, there is formation of cracks in the walls of the residential houses resulting in complete damage. It is further stated that the limestone mines is situated at a distance of 232mtrs from the habitation and less than 300mtrs from the Government Primary school, Kotputli. The Crusher No.1 is situated at a distance less than 500mts from the village of Jodhpura, whereas the Crusher No.2 is situated at 82 mtrs from the Government Primary school and less than 130 mtrs from the habitation and as a result of blasting in such close proximity, the ground vibrations are causing cracks in the walls, floors, doors of the Government Primary School, Kotputli, houses of the residents. It is further stated that the issue of pollution and severe damage is known to the respondent authorities and more particularly

Sub-Divisional Officer Kotpuli and one report dated 18.01.2023 was prepared by Sub Divisional Officer Kotputli (Jaipur) & Sub Divisional Magistrate Kotputli and sent to the District Collector after receiving investigation reports from various departments. The report dated 18.01.2023, records findings of the Tehsildar, with regards to the distance of mining area from the populated area. The relevant portion of the findings of the Tehsildar report is reproduced below:-

“Tehsildar- The report of Tehsildar Tehsil Kotputli is as follows - The distance of mining area from the populated area is 232 meters. Jodhpura is a part of revenue Village Mohanpura and Jodhpura is not a separate revenue village.”

21. It is further argued that a letter dated 21.01.2024 was written to the Kotputli, collector by the Applicant seeking to undertake investigation of damage and also highlighted the damages caused due to the heavy blasting. The relevant portion of the letter is reproduced below:-

“v. That heavy blasting very close to the population causes earthquake-like vibrations due to which incidents like cracks in houses, falling of pillars, balconies etc. are taking place. Due to which common villagers are forced to live under the shadow of fear even in their homes.

vi. That due to heavy blasting, stones keep falling into the populated areas (houses) of the village, many times causing huge loss of life in the village.

vii. That due to heavy blasting recently on 03.10.2023, stones have fallen in the houses of Shri Boduram, Lakshminarayan and Leelaram Yadav, FIR for which has been registered in PS Sarund on 06.10.2023. FIR number is 0269 on this incident today no action has been taken till date.

viii. That due to the Govt Higher Primary School of the village being very close to the heavy blasting area, stones have once or twice fallen on the school premises, creating an atmosphere of fear among the students.”

22. It is further submitted that based on the complaints received from villagers of Jodhpura, the PWD formed a Joint Committee. A survey was undertaken in 211 houses of village of Jodhpura (Mohanpura) on 27.12.2022 and 30.12.2022. The Preliminary report submitted by the Public Works Department (PWD) dated 11.01.2023 found that several of the houses had cracks in the wall, roof, stairs, terrace. Further, strip of roof was found to be broken or there were gaps in the wall.
23. The Applicant has attached the report submitted by the Assistant Engineer, Public Works Department, Subdivision Kotputli, addressed to the Sub-Divisional Officer, Kotputli, Jaipur, who has verified it and in the report houses which have been affected were examined and there were cracks found in the wall. The list of 211 persons has been submitted after which in some of the houses no cracks were found and in most of the houses, cracks on the roof and in the wall have been found. It is alleged to be direct effect of blasting operated by the Project Proponent. The submissions of the learned Counsel for the Applicant are that the Project Proponent has failed to undertake controlled blasting activities as a result of which severe structural damage has been caused to the villagers of the Jodhpura thereby violating conditions relating to ground vibration granted in the conditions of Environmental Clearance.
24. Reply on behalf of the Respondent No.6, Director General of Mines and Safety, has been filed. Learned Counsel Mr. Om Shankar Shrivastava, has argued that the Lease No. 03/2003 located near Village-Mohanpura Jodhpura, in Tehsil-Kotputli, District-Jaipur, Rajasthan, fall under the jurisdiction of Ajmer Region-1 of Directorate General of Mines Safety, head-quartered at Ajmer (Rajasthan) and the Region is headed by Director of Mines Safety, also designated as Regional Inspector of Mines,

who is assisted by a Dy. Director of Mines Safety, also designated as Inspector of Mines. It is stated that the onus to ensure safety, health and welfare of workers employed in mines rests with the mine owner and agent (person, whether appointed as such or not, who acts or purports to act on behalf of the owner) of the mine, which is clearly laid down in Section 18(1) of the Mines Act, 1952, which quotes that "The owner and agent of every mine shall each be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Act, and the Regulations, Rules, bye-laws and orders made there-under. Provisions of Sections 18(4) of the Mines Act, 1952, further state that "The owner, agent and manager of every mine shall each be responsible to see that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act, and of the Regulations, Rules, bye-laws and orders made there-under.

25. It is further argued that the Owner, Agent or Manager of Mining lease No. 03/2003, located near Village Jodhpura, Tehsil-Kotputli, District-Kotputli (Earlier-Jaipur District), Rajasthan, has obtained permission under Regulation 106(2)(b) of the Metalliferous Mines Regulations, 1961 to work by a system of deep-hole blasting (in area more than 300m distance from the habitation of Mohanpura-Jodhpura Village) with the help of Heavy Earth Moving Machinery vide this Directorate's letter No. 360971/NZ/Ajmer Region-1/Perm/2023/255992 dated 28.6.2023, valid up to 27.06.2028. It is stated that Jodhpura Village was located at a distance of about 232m from the present mine workings of the mine. Therefore, management has obtained permission under Regulation 164(1 - B)(a) of the Metalliferous Mines Regulations, 1961 vide this

Directorate's letter No. 360971/NWZ/Ajmer Region-1/Perm/2023/258045 dated 20.10.2023 (annexed as ANNEXURE R-6/2) on the basis of recommendations of scientific study conducted by AKS University, Satna (MP) and report submitted vide Ref. No GK/GKH/7130523282, to conduct controlled blasting within 300m and beyond 100m distance from any permanent building or structure of permanent nature, not belonging to owner of the mine. Clause No. 3.3(a) of the above permission under Regulation 164(1 - B)(a) of the Metalliferous Mines Regulations, 1961, specified the parameters for controlled blasting for maximum allowable Peak Particle Velocity (PPV) of 10mm/sec for frequency range of 8-25Hz, for the mine. Clause No. 5 specify that "Monitoring of peak particle velocity and of the dominant frequency shall be done with each round of deep hole shots fired with the approved ground vibration measuring instrument such as seismograph/microphone/Geophones/Noise meter etc. capable of giving digital output shall be done to measure PPV in mm/sec. and air over pressure in dB(A), to ensure that the ground vibrations are within the safe limit as recommended". Permissible Peak Particle Velocity (PPV) in mm/s of the blast induced ground vibrations with dominant excitation frequency range was defined vide DGMS (Technical) Circular No.7/1997:

Types of structure	Dominant excitation frequency, Hz		
	<8 Hz	8-25 Hz	>25 Hz
A) Buildings/structures not belong to the owner			
i) Domestic houses/structures (Kuccha, Brick & Cement)	5	10	15
ii) Industrial buildings (RCC & Framed structures)	10	20	25
iii) Objects of historical importance and sensitive structures	2	5	10
B) Buildings belong to owner with limited span of life			
i) Domestic houses/structures (Kuccha, Brick and Cement)	10	15	25
ii) Industrial Buildings (RCC & Framed structures)	15	25	50

On the complaint of Villagers and subsequently letter from ADM, Kotputli, two trial blasts were conducted at the mine on 06.03.2024 in presence of Shri Surjeet Katewa, Director of Mines Safety, Ajmer Region-1. The blasts were conducted at about 320m & 400m distance from the village habitation. The blast induced ground vibration recorded were 4.08mm/sec PPV@79Hz at 270m distance and 1.245mm/sec PPV@57Hz at 350m distance respectively, which were below to the allowable maximum 10mm/sec Peak Particle Velocity. Further two blasts were also conducted on 29.07.2024 in presence of Shri Durga Shankar Salvi, Dy. Director of Mines Safety, Ajmer Region-1 at about 636m & 694m distance respectively from the habitation. The blast induced ground vibration recorded 0.678mm/sec PPV@17.1Hz and 0.717mm/sec. PPV@15.8Hz and at 580m and 640m distance respectively towards habitations from blasting site, which were also within allowable maximum 10mm/sec Peak Particle Velocity. Additionally, record of blasting maintained at the mine were also checked and observed that blast induced ground vibration recorded during blasting in the mine were below the allowable maximum 10mm/sec Peak Particle Velocity, prescribed in the above permission under Regulation 164(1 - B)(a) the Metalliferous Mines Regulations, 1961, at clause No.3.3(a) specified above.

26. It is further argued that on the complaint of villagers and subsequently letter from ADM, Kotputli, two trial blasts were conducted at the mine on 06.03.2024 in presence of Shri Surjeet Katewa, Director of Mines Safety, Ajmer Region-1. The blasts were conducted at about 320m & 400m distance from the village habitation. The blast induced ground vibration recorded were 4.08mm/sec PPV@79Hz at 270m distance and

1.245mm/sec PPV@57Hz at 350m distance respectively, which were below to the allowable maximum 10mm/sec Peak Particle Velocity. Further two blasts were also conducted on 29.07.2024 in presence of Shri Durga Shankar Salvi, Dy. Director of Mines Safety, Ajmer Region-1 at about 636m & 694m distance respectively from the habitation. The blast induced ground vibration recorded 0.678mm/sec PPV@17.1Hz and 0.717mm/sec. PPV@15.8Hz and at 580m and 640m distance respectively towards habitations from blasting site, which were also within allowable maximum 10mm/sec Peak Particle Velocity. As stated, complaint enquirers were conducted at the mine on 06.03.2024 & 29.07.2024 to assess the damage due to blasting operation.

27. Learned Counsel for the Applicant has further argued that the blasting and cracks in the wall or in the roof of the houses are inter-related and is a substantial question relating to environment as damage is caused and the Original Application is maintainable under Sections 14 and 15 of the National Green Tribunal Act, 2010.
28. The Joint Committee report provides recommendations on the basis of observation made in the report. The Committee has recommended for constituting a Committee for considering the matter of resettlement and rehabilitation as per NPRR 2003 for Village-Jodhpura as per Condition No. (A-xvii) of the EC accorded to the Unit.
29. The Applicant has filed the response to the Joint Committee report and submitted that the Joint Committee has failed to take into account the report of the Sub-Divisional Magistrate, Kotputli, which clearly states that the limestone mine and the two crushers are located in close proximity with habitation and primary school. The distance of habitation is approximately 232 meters while the primary school is less than 300

meters and other habitations and primary schools are reported to be 286 meters to 82 meters and the villagers are facing issues like cracks in the wall, floors, doors of the houses due to uncontrolled blasting activities and there is threat of collapse of residential houses, Govt. primary school. The Joint Committee has also reported that the cracks in some of the houses were due to construction defects, due to vibration and in some of the cases due to old age. Accordingly, when three causes of their on the basis of possibility and there are vibrations, thus it is more practical in nature that the cracks on the walls are found due to vibrations.

30. It is further argued that cracks are also visible in new buildings constructed in the village which can only appear due to ground vibrations from the blasting activities undertaken in close proximity of limestone mines. Even the Anganwadi Centre set up by Respondent No.8 is showing cracks in the walls due to vibrations from blasting activities. The following table will provide information on the recent constructions undertaken in the village area:

Year of construction	Owner of the property
2017	Ram Niwas Yogi
2017	Kailash Yadav
2017	Nihal Singh Yadav
2017	Surendra Yogi
2017	Haridwari Lal Yadav
2020	Birdinath
2022	Gautam Surelia
	Anganwadi centre set-up by Respondent No. 8

31. It is stated that the village of Jodhpura falls within the mining lease area of 548.78ha and lies in close proximity to the limestone mines and the two crushers. The Crusher no.1 is just 286mts from the human

habitation and the crusher no.2 is 110mtrs away from the human habitation and just 82mtrs from the Government Primary School, Kotputli. The village of Jodhpura is just 232mtrs from the limestone mine and less than 300mtrs from Government Primary School, Kotputli. It is submitted that because of the close proximity of the limestone mines and the crushers, the houses of the residents of Jodhpura have been severely damaged owing to the ground vibrations.

32. The contention of the learned Counsel for the Applicant has been corroborated by the report of the Mining Department and reply submitted by the State quoted above.
33. The submissions of the learned Counsel for the Respondent/Project Proponent are that it is alleged that with respect to ground vibrations and blasting, specific condition number (iv) and standard condition numbers (IV) (18) of the EC have been violated. It is further contended relying upon the report of the SDM dated 18 January 2023 that cracks have developed in the houses of the villagers. All the aforesaid conditions stand fully complied with, as demonstrated below:-

“(a) Specific condition number (iv): The Answering Respondent is required to monitor the noise level and ground vibration during drilling and blasting at the edge of the mine, near the village, crusher and at other sensitive receptors. Such data is required to be submitted quarterly to the Ministry’s Integrated Regional Office.

Compliance:

- Ground vibrations and noise levels are regularly monitored in the presence of the villagers.*
- The ground vibration and noise level monitoring reports are regularly submitted to the authorities.*

(b) Standard condition number (IV) (18): The Answering Respondent is required to ensure that the peak particle velocity at the nearest habitation is regularly monitored as per DGMS guidelines.

Compliance:

- The DGMS through its Circular No. 07 of 1997 has specified the permissible limits of ground vibration for different types of structures as described in the table below:-

Type of structure	Dominant excitation frequency, Hz		
	< 8 Hz	8 – 25 Hz	> 25 Hz
1 Buildings/ structures not belonging to the owner			
Domestic houses/ structures (Kuchha brick and cement)	5	10	15
Industrial Buildings (RCC and framed structures)	10	20	25
Objects of historical importance and sensitive structures	2	5	10
2 Buildings belonging to owner with limited span of life			
Domestic houses/ structures (Kuchha brick and cement)	10	15	25
Industrial buildings (RCC & framed structures)	15	25	50

- It must be noted that the Answering Respondent has not exceeded these limits, as is also demonstrated in the ground vibration summary reports regularly submitted to the DGMS by the Answering Respondent. Further, the limestone mine of the Answering Respondent is also subjected to regular and periodic inspections by IBM.
- It must also be highlighted that the Answering Respondent has performed drilling and blasting only at permissible distances and locations. The Answering Respondent possesses the permission of the Directorate General of Mines and Safety (“DGMS”) for the use of Heavy Earth Moving Machinery for digging, excavation, removal of overburden and extraction of stone and to form benches in overburden and stone lying in the area in conjunction with deep hole drilling and blasting under Regulation 106 (2) (b) of the Metalliferous Mines Regulation, 1961 (“Metalliferous Regulations”) dated 28 June 2023.

- Furthermore, the Answering Respondent also possesses permissions under Regulation 164 (1-B) of the Metalliferous Regulations to conduct deep hole blasting within 300 m of the danger zone but beyond 100 m of surface structures not belonging to itself dated 20 October 2023.
- The Answering Respondent performs drilling and blasting strictly in conformity with the conditions prescribed in the aforesaid permissions, including the permissible levels of ground vibrations.
- The Answering Respondent's compliance with respect to matters of ground vibration and blasting has also been reported by the Director of Mines Safety, Ajmer in the report dated 22 March 2024 prepared at the instance of the office of the SDM, Kotputli, as annexed with the OA as Annexure A13. It is categorically recorded therein that the permissions are being complied with. It is also stated that the allegations of the villagers relating to feeling earthquake-like vibrations and projection of stones near their houses have been found to be baseless and inaccurate.
- Insofar as the allegations of the Applicant pertaining to structural damages to the houses of the villagers due to the drilling and blasting, it is most appropriate to refer to the conclusions of the Superintending Engineer in the report dated 22 March 2024 prepared at the instance of the office of the SDM, Kotputli, as annexed with the OA as Annexure A13. It is categorically stated therein that most of the houses where structural damage has been complained of are 40-60 years old. In such old houses, cracks are visible either due to age or constant temperature. Such structural damage cannot be attributed to the operations of the Answering Respondent.
- Furthermore, in the Report prepared at the instance of the office of SDM, Kotputli dated 18 January 2023, as annexed with the OA as Annexure A-13, the representative of the Public Works Department ("PWD") has also given its finding regarding structural damages. It is stated therein that 211 houses were surveyed for the purpose of this report, some of which have been found to have cracks due to structural damage. It is also stated that the houses are very old, it is natural that such cracks and damages will reveal themselves. Therefore, even basis the report being relied upon by the Applicant itself, it cannot be concluded that any structural damages have been inflicted on account of the operations of the Answering Respondent.

In any event, the said report is claimed to be a preliminary survey only and its findings are not conclusive. Therefore, the assertions and allegations of the Applicant are baseless even on the strength of the documents being relied upon in their support.

Further, the report of the PWD dated 11 January 2023, as annexed with the OA as Annexure A-18 is also not conclusive in establishing that nearby houses have suffered structural damages on account of the operations of the Answering Respondent. The covering letter categorically states that there is no one cause behind such damages and the causes range from the houses being very old, the houses having structural defect and also the vibrations. The said report nowhere concludes or establishes a causal link between the vibrations and the damages to the nearby houses.”

34. After taking cognizance of the matter, this Tribunal constituted a Joint Committee to visit the site and submit the report and in compliance thereof, the members of the Committee visited the site and submitted the report as follows:-

“Factual and action taken report in the matter of Jodhpura Sangharsh Samiti V/s Union of India & Ors., Original Application No. 143/2024 (CZ), Hon’ble NGT, Central Zone Bench, Bhopal

.....X.....X.....X.....X.....

6. Field visit of Joint Committee:

In accordance with the aforementioned Hon’ble NGT order and letters, the joint committee members/representatives visited, the site in concern, on dated 06/08/2024 and 07/08/2024. Following officials were present during the joint committee visit: -

- i. Sh. Vijai N., Member Secretary, RSPCB, Jaipur,*
- ii. Sh. Prema Lal, Chief Environmental Engineer, RSPCB, Jaipur,*
- iii. Sh. Durga Shankar Salvi, Deputy Director of Mines Safety, DGMS, Ajmer,*
- iv. Sh. Sanjay Kumar Mukati, Scientist – B, Regional Directorate, CPCB, Bhopal,*

- v. Sh. Deependra Jharwal, Senior Environment Engineer and Regional Officer, Regional Office, RSPCB, Alwar, and
- vi. Sh. Amichand Duharia, Assistant Mining Engineer, Mines Department, District – Kotputli-Behror.

The Joint Committee members on the first day of visit i.e. on 06/08/2024 visited the Limestone Crusher Unit-2 of M/s Ultra Tech Cement Ltd. (which is located in close proximity of the Village-Jodhpura, approximately 200 meters from the Government Upper Primary School, Jodhpura as per the Google Maps) to check the pollution/emissions control measures adopted by the industry, thereafter inspected the mining lease (active mining pit) of the industry and then inspected of the houses in Jodhpura village to verify the allegations made by the applicant regarding formation of cracks in Government Upper Primary School, Jodhpura & nearby houses. The committee also interacted with the villagers of Jodhpura village where the villagers pointed out several other problems e.g. the issue of rehabilitation of Jodhpura village (as it is a part of the Mohanpura village as reported/informed by the villagers of Jodhpura village), siting criteria of the Limestone Crusher Unit-2, the problem of fly-rocks during blasting, the issue of depletion of ground water level, lack of basic amenities (i.e. supply of drinking water, medical services and enrolment of village children in English medium school of M/s Ultratech) and green belt development of plants of native species.

On the second day of the visit i.e. on 07/08/2024, the Joint Committee Members inspected the Limestone Crusher Unit-1 of M/s Ultra Tech Cement Ltd. (which is located approximately 600 meters from the Government Upper Primary School, Jodhpura as per the Google Maps) to verify the pollution/emissions control measures adopted by the industry. Thereafter, the members visited the protesting site of the villagers and noted down their problems/grievances which are same as mentioned in the above para. The industry representative was also called at the protesting site where he informed that English medium school built by M/s Ultratech has enrolled 67% of the admissions of the village children. He also added that a total of 32 drinking water tankers are being distributed by the industry out of which 18 tankers are being regularly distributed in Jodhpura village. Besides the industry periodically provides skill development training e.g. computer

coaching, sewing training, etc. The industry also provides medical facilities to the villagers of Jodhpura in form of ambulance facility, basic medicine distribution, eye check-up camps and mobile van for treatment. The industry had earlier excavated 08- 10 borewells in the Jodhpura village although, at present, most of them have dried-up. Industry representative also informed that more than 12,00 families are engaged and benefitting, directly or indirectly, from the employment generated by the industry. On the issue of the problem caused by the blasting activity, as alleged by the villagers, the industry representative informed that now they have increased the number of blasting holes from 08 (earlier) to 16, but with lesser depths, in order to resolve the problem earlier being faced by the villagers. As informed by the representative, they have planted approx. 1,04,321 nos. of trees in and around the mining area (up to FY 2023-24), out of which, 94,944 nos. of trees have been surviving, however, he also alleged that approx. 50000 nos. of trees have been felled illegally in the mining lease area by the anti-social elements for which the industry has also requested the District Collector, vide letter dated 16/01/2024, to take appropriate action in this regard. The copy of letter dated 16/01/2024 is enclosed as Annexure-6. Some of the work done by the industry under Corporate Social Responsibility (CSR) and its brief has been compiled by the industry and is enclosed as Annexure-7.

During the visits of joint committee members, the Assistant Mining Engineer, Kotputli-Behror also submitted a factual status report.

Based on the discussions held with the members, it was decided to write letters to Chief Medical & Health Officer for the submission of the details of patients and details of diseases occurred due to the operation of the industry. It was also decided to write to Ground Water Department regarding submission of the impact on the ground water level due to the operation of the industry and to write to Mining Department as well as to the industry itself to submit the original plan/policy regarding rehabilitation at the start of the project.

Accordingly, RSPCB, being the nodal department issued letters to the concerned, on dated 08/08/2024.

During the site visit, ambient air quality monitoring, fugitive emission monitoring, Noise Monitoring stack monitoring of the limestone crusher-1, water analysis of the mining pit, wastewater analysis of the STP Outlet, water analysis of bore-wells located at the

upstream as well as on the downstream of the unit. All the analysis/monitoring reports showing parameter as per prescribed standards are collectively enclosed as Annexure-9. However, it is pertinent to mention here that during inspection by joint committee on 06/08/2024 and 07/08/2024 there was light rain and operation hours of both stone crushers and mining activities got affected due to the rain therefore, air quality monitoring and/or water/wastewater analysis is not advisable during rainy season for the reason that the results might get affected.

In addition, previous analysis reports Oct, 2023 of STP outlet, Mine pit water quality, Air quality near mine pit, plant boundary and other locations, Fugitive emissions of Lime stone crusher 1 and RMC etc. and fugitive emission monitoring of Limestone crusher 2 dated 09.07.2024, showing parameter as per prescribed standards are enclosed as Annexure- 10. Comparative statement of last 06 months dust emission reports from the mine is enclosed as Annexure- 11.

Status of pollution control measures adopted in the Limestone crusher Unit -1 of M/s Ultra Tech Cement Ltd.: -

- i. This stone crusher is located in the mining lease of the industry and is at about 600 meters from the Government Upper Primary School, Jodhpura as per the Google Maps.
- ii. The stone crusher is of capacity 1600 TPH capacity and having Consent to Operate (CTO) under Air Prevention and Control of Pollution) Act, 1981, valid up-to 31/08/2032.
- iii. The limestone crushing process/flow in the stone crusher is as follows: - Limestone lumps/boulders from mining lease → Limestone Feeder → Wobbler → Crusher → transported to plant via covered conveyors for cement manufacturing
- iv. The aforesaid assembly is covered from the top in order to prevent the same from any rain intrusion.
- v. The emission during feeding of limestone into the feeder that generates emissions, for which the industry has installed water sprayers fitted with automatic detectors. The feeder point is also provided with the flexible rubber seals to suppress the emissions.
- vi. The emissions points of wobbler and crusher is attached/connected with the automatic Pulse-jet type Bag House which is ultimately connected with the ID fan and then to

the stack of height 30 meters thereby minimizing the dispersion of process emissions into the ambient environment.

vii. Metalled road has been provided in the crusher premises to prevent any fugitive emissions.

viii. The crusher premises are surrounded by the dense plantation cover.

Status of pollution control measures adopted in the Limestone crusher Unit -2 of M/s Ultra Tech Cement Ltd.: -

i. This stone crusher is also located in the mining lease of the industry and is in the close proximity of the village Jodhpura and is about 200 meters away from the Government Upper Primary School, Jodhpura as per the Google Maps.

ii. The stone crusher is of capacity 1600 TPH capacity, similar to the Limestone Crusher Unit -1 having Consent to operate under Air Prevention and Control of Pollution) Act, 1981, valid up-to 31/10/2028.

iii. The limestone crushing process/flow in the stone crusher is as follows: - Limestone lumps/boulders from mining lease → Limestone Feeder → Wobbler → Crusher → transported to plant via covered conveyors for cement manufacturing

iv. Industry has covered the dug (feeding point of the limestone into the crusher) with rubber seals and fitted the enclosure with the sprinklers having automatic detectors for the vehicles entering into the enclosure to suppress the emissions during feeding of limestone.

v. The emissions points of wobbler and crusher is attached/connected with the automatic Pulse-jet type Bag House which is ultimately connected with the ID fan and then to the stack of height 30 meters thereby minimizing the dispersion of process emissions, during limestone crushing, into the ambient environment.

vi. Metalled access roads have been provided for the movement of vehicles from the mines to the dug of the crusher, to prevent fugitive emissions during vehicular movement.

vii. Water sprinkling with the help of tankers and fog canon was noticed on the access roads.

viii. The front side of the crusher (facing the Jodhpura Village) is provided with a wind barrier shed of height approx. 26 feet and

with the running length of approx. 252 meters. Besides above, the boundary wall of height approx. 06 feet is provided around the crusher premises for the demarcation.

ix. Dense plantation has been carried out outside the front facing side (with wind barrier shed) of the crusher and adequate saplings have been planted inside.

x. Unit has also installed a vibratory screen, for the screening of rejects (if needed), in the crusher premises. The covering work of the same is under process.

“It is submitted that both Lime stone crushers are established on mining lease having ML No: 03/2003 in name of “Ultratech Cement Limited”, which is valid up-to 04/07/2034 and Rajasthan State Pollution Control Board guideline for abatement and control of pollution in Stone Crusher industry dated 05/06/2018 stated that Stone crusher units may be established and operate on mining lease”.

Status of pollution control measures adopted in the Mining Lease of M/s Ultra Tech Cement Ltd.: -

i. The total area of the mining lease is 548.78 Ha and area being used for the mining purpose is 71.59 Hectares at present.

ii. Environmental Clearance under EIA, 2006 was accorded to said mining lease by MoEF and CC, GoI vide letter dated 16.01.2023 for lime stone mining up-to capacity 10.50 MTPA (ROM) and having Consent to Operate (CTO) under Air Prevention and Control of Pollution) Act, 1981, valid upto 31.10.2028.

iii. There is 01 active mining pit, where mining is being done via opencast shovel and dumper combination of mining with the benches system. iv. Unit has provided permanent water sprinklers fitted on the access roads in in the mining lease to control and reduce fugitive emissions.

v. Efforts are made by unit to provide plantation around Mining Lease Area.

vi. Overburden observed at earmarked OB Dump site only and top-soil stacking also found satisfactory. vii. Unit has done plantation on the matured overburden dumps (on clay dumps) and has provided retaining wall of height approx. 1.5 meters.

Excerpts from the factual status report of Assistant Mining Engineer, Kotputli-Behror (Copy of the report is enclosed as Annexure-12): -

i. The mining lease was originally transferred from Rajasthan State Industrial Development Corporation to M/s Grasim Industries Limited vide order dated 18/02/2002.

ii. Thereafter, the mining lease was transferred from M/s Grasim Industries Limited to M/s Ultratech Cement Limited, vide order dated 28/08/2018.

iii. The mining lease was earlier inspected on dated 19/12/2022 in reference to the complaint received against the unit. Details are as follows: -

a) The nearest house in Abadi is located at a distance of 400 meters from the mining pit.

b) Mining activity/blasting is being done in the designated area by the industry.

c) The industry has obtained permission, for deep hole blasting and for blasting at a distance of 100 meters from any public places, vide DGMS letters dated 28/06/2023 and 20/10/2023 respectively.

iv. Mining lease was again inspected on dated 28/04/2023 and observations during inspection were as follows: -

a) The mining activity, with the help of excavator, was being done at a distance of 200 meters from the nearest house in Abadi.

b) No blasting was being carried out, from 03 months, in the mining pit located nearest to the village Jodhpura, due to the opposition from some of the villagers of Jodhpura. Therefore, the mining was being done only with the help of machineries.

c) During inspection, the industry representative (for mining lease) informed that the blasting is only being done in the Western end of the mining lease which is located at a distance of 650 meters from the nearest Abadi.

d) The nearby houses were also visited but no fresh cracks, due to blasting operations, were observed in these houses.

e) Mining activity was being done in the designated area by the industry which was located at a distance of 400 meters from the public place/nearby houses.

v. In compliance of the direction received from the District Collector, a notice was issued to the industry, vide letter dated 27/02/2024, for the submission of feasibility report of the mining lease.

vi. In reply to the aforementioned notice, the industry, vide its email dated 01/03/2024, submitted the feasibility report with the relevant documents and according to which the distance of blasting pit was 440 meters from the nearest public places.

vii. The mining lease was again inspected on 06/03/2024 along with the DGMS Official Sh. Surjit Katewa. Details are as follows:

- a) The verification of blasting was done by the DGMS official in presence of the industry representative for mining lease.

b) 12 holes each were blasted at a distance of 320 meters and 400 meters away from the Abadi in order to conduct the vibration study.

viii. In accordance with the letter dated 11/01/2023 from Assistant Engineer, Public Works Department, Kotputli, a team was constituted by the SDM vide his letter dated 13/12/2022 to verify and check the damages to the nearby houses/structures in the Jodhpura Village.

ix. The aforementioned team inspected, on dated 27/12/2022 and 30/12/2022, and during inspection it was observed by the team that the cracks in some of the houses were due to the construction defects, due to vibration and in some of the cases due to the old age nature of the houses.

x. In accordance with the letter dated 15/10/2008 from Land Acquisition Officer cum Sub-Divisional Officer, Kotputli, the award amount of Rs. 13,43,42,698/- was decided to acquire the land of area 213.7750 Hectares of Villages Mohanpura, Kujota, Mahrampur Rajput, Mahrampur Nawab of Tehsil-Kotputli, District – Kotputli-Behror (then District-Jaipur).

xi. According to the Executive Engineer, PWD, Kotputli Circle letter dated 22/02/2024, the visibility of cracks in the Village Jodhpura can be seen due to the age of these structures

(approx. 40-60 years old), due to the ambient temperature fluctuations and due to the vibrations from blasting activity.

xii. Villagers submitted that either the new limestone crusher (Unit-1) does not get operational or the villagers to be rehabilitated.

Observations, from Directorate General of Mines Safety, regarding the issue of problem caused due to blasting and vibrations, during site visit of joint committee members: -

i. Owner, Agent or Manager of Mining lease No. 03/2003, located near Village Jodhpura, Tehsil-Kotputli, District-Kotputli (Earlier-Jaipur District), Rajasthan has obtained permission under Regulation 106(2)(b) of the Metalliferous Mines Regulations, 1961 to work by a system of deep-hole blasting (in area more than 300m distance from the habitation of Mohanpura-Jodhpura Village) with the help of Heavy Earth Moving Machinery vide this Directorate's letter No. 360971/NZ/Ajmer Region-1/Perm/2023/255992 dated 28.6.2023, valid up to 27.06.2028.

ii. Jodhpura village was located at a distance of about 232m from the present mine workings of the mine. Therefore, management has obtained permission under Regulation 164(1-B) (a) of the Metalliferous Mines Regulations, 1961 vide this Directorate's letter No. 360971/NWZ/Ajmer Region-1/Perm/2023/258045 dated 20.10.2023 (Copy enclosed as Annexure-II) on the basis of recommendations of scientific study conducted by AKS University, Satna (MP) and report submitted vide Ref. No GK/GKH/7130523282, to conduct controlled blasting within 300m and beyond 100m distance from any permanent building or structure of permanent nature, not belonging to owner of the mine.

iii. Clause No. 3.3(a) of the above permission under Regulation 164(1-B) (a) of the Metalliferous Mines Regulations, 1961, specified the parameters for controlled blasting for maximum allowable Peak Particle Velocity (PPV) of 10mm/sec for frequency range of 8-25Hz, for the mine.

iv. Clause No. 5 specify that "Monitoring of peak particle velocity and of the dominant frequency shall be done with each round of deep hole shots fired with the approved ground vibration measuring instrument such as seismograph /microphone/Geophones/Noise meter etc. capable of giving digital output shall be done to measure PPV in

mm/sec. and air over pressure in dB(A), to ensure that the ground vibrations are within the safe limit as recommended”. Permissible Peak Particle Velocity (PPV) in mm/s of the blast induced ground vibrations with dominant excitation frequency range was defined vide DGMS (Technical) Circular No.7/ 1997:

Types of structure	Dominant excitation frequency, Hz		
	<8 Hz	8-25 Hz	>25 Hz
A) Buildings/structures not belong to the owner			
i) Domestic houses/structures (Kuccha, Brick & Cement)	5	10	15
ii) Industrial buildings (RCC & Framed structures)	10	20	25
iii) Objects of historical importance and sensitive structures	2	5	10
B) Buildings belong to owner with limited span of life			
i) Domestic houses/structures (Kuccha, Brick and Cement)	10	15	25
ii) Industrial Buildings (RCC & framed structures)	15	25	50

- v. On the complaint of villagers and subsequently letter from ADM, Kotputli, two trial blasts were conducted at the mine on 06.03.2024 in presence of Shri Surjeet Katewa, Director of Mines Safety, Ajmer Region-1. The blasts were conducted at about 320m & 400m distance from the village habitation. The blast induced ground vibration recorded were 4.08mm/sec PPV@79Hz at 270m distance and 1.245mm/sec PPV@57Hz at 350m distance respectively, which were below to the allowable maximum 10mm/sec Peak Particle Velocity.
- vi. Further two blasts were also conducted on 29.07.2024 in presence of Shri Durga Shankar Salvi, Dy. Director of Mines Safety, Ajmer Region-1 at about 636m & 694m distance respectively from the habitation. The blast induced ground vibration recorded 0.678mm/sec PPV@17.1Hz and 0.717mm/sec. PPV@15.8Hz and at 580m and 640m distance respectively toward village, which were also within allowable maximum 10mm/sec Peak Particle Velocity.
- vii. Blasting records maintained at the mine were also checked since August, 2023 to July, 2024 i.e. one year and observed that maximum Peak Particle Velocity was recorded 4.51mm/sec. on dated

01.6.2024, which was below the allowable maximum 10mm/sec. Peak Particle Velocity, prescribed in the above permission under Regulation 164(1-B) (a) of the Metalliferous Mines Regulations, 1961, at clause No.3.3(a) specified above.

viii. The Joint Committee members visited the above mine on 06/08/2024 & 07.8.2024, the details of the trial blast as follows:

(i) Two blasts were conducted on 06/08/2024 in presence of Shri Durga Shankar Salvi, Dy. Director of Mines Safety, Ajmer Region-1. Location of first blast was at 305 Alkali Ramp and two instruments were located at different places near Jodhpura Road towards habitations. The blast induced ground vibration were recorded 1.075mm/sec. PPV@27Hz and 1.816mm/sec. PPV@32Hz respectively. Location of the instruments were about 725m & 745m distance respectively from blasting site. The distance of nearest habitations was about 770m from blasting site. The blast induced ground vibration was monitored in both instruments within allowable maximum 10mm/sec Peak Particle Velocity. Second blast was at Location 335 Kaizen, and instruments were at same location as above. The blast induced ground vibration recorded 1.586mm/sec PPV@31Hz and 0.780mm/sec. PPV@128Hz and at 1025m and 670m distance respectively near Jodhpura road towards habitations from blasting site. The distance of nearest habitations was about 800m from blasting site. The blast induced ground vibration was monitored in both instruments within allowable maximum 10mm/sec Peak Particle Velocity.

(ii) Further two blasts were also conducted on 07/08/2024 in presence of Shri Durga Shankar Salvi, Dy. Director of Mines Safety, Ajmer Region-1. Location of first blast was at 305 Alkali and two instruments were located at two different locations at Jodhpura Road towards habitations. The blast induced ground vibration recorded 0.903mm/sec PPV@15.8Hz and 1.095mm/sec. PPV@38Hz and at 715m & 670m distance respectively. The distance of nearest habitations was about 755m from blasting site. The blast induced ground vibration was monitored in both instruments within allowable maximum 10mm/sec Peak Particle Velocity.

Second blast was at Location 290 Box, and instruments were at same location as above. The blast induced ground vibration

recorded 1.418mm/sec PPV@114Hz and 1.248mm/sec. PPV@38Hz and at 625m and 525m distance respectively at Jodhpura road towards habitations from blasting site. The distance of nearest habitations was about 580m from blasting site. The blast induced ground vibration was monitored in both instruments within allowable maximum 10mm/sec Peak Particle Velocity.

6. Other relevant observation/information –

- i. In reply to the RSPCB letter dated 08/08/2024, the factual status report received from Mining Department vide letter dated 14/08/2024 and earlier from AME, Kotputli-Behror as referred above are enclosed as Annexure 12.
- ii. In reference with the RSPCB letter dated 08/08/2024, the unit, vide its email dated 12/08/2024, submitted that the original proposal for the rehabilitation was in accordance with the letter dated 15/10/2008 from Land Acquisition Officer cum Sub-Divisional Officer, Kotputli, wherein the award amount of Rs. 13,43,42,698/- was decided to acquire the land of area 213.7750 Hectares of Villages Mohanpura, Kujota, Mahrampur Rajput, Mahrampur Nawab of Tehsil-Kotputli, District – Kotputli-Behror (then District-Jaipur) was issued and there was no consideration of the Mohanpura Village. The reply of the industry with the requisite document is enclosed as Annexure-13.
- iii. Unit has installed 11 piezo-meters across the premises (i.e. Plant, Mines and colony) and monitored water level regularly , Data from Jan, 2024 to June 2024 enclosed as Annexure -14 and unit is also recharging the ground water with help of ground water recharge structures , Data from Jan, 2024 to June 2024 enclosed as Annexure -15, however ground water is related with Ground water department and in this regard a letter was written on 08/08/2024 behalf of committee members and reply of same is awaited.
- iv. On behalf of committee a letter was written to CM&HO, Kotputli-Behror to provide details of patient and diseases such as asthma, eye problem, hearing problem and skin diseases due to operation of Ultratech Cement Lie stone mining and stone crusher, however reply is awaited. In this regard earlier report

of PMO, Govt. B.D.M.Hospital, Kotputali is enclosed as Annexure- 18.

v. It is submitted that at point no 2 (xvii) of EC issued by MoEF and CC, GoI Dated 16.01.2023 details regarding rehabilitation and resettlement mentioned stated that one village Mohanpura has been properly rehabilitated and another village namely Kujota need rehabilitation, which is planned to be shift after lease validity period (year 2034). Besides in EC earlier accorded to unit vide letter dated 17.08.2006 at point no.2 (A-xvii) it was mentioned that “Land oustess and land losers/affected people should be rehabilitated as per the National Policy on resettlement and Rehabilitation of project affected families,2003”.

vi. Unit has not covered Jodhpura village under (R&R policy 2003) due to reason that the no mineral zone at the Jodhpura village site area and unit is not interested to invest in Resettlement and Rehabilitation of village Jodhpura as informed by the unit representative to the committee.

vii. It is submitted that road from the main highway to the cement plant required regular cleaning by mechanical sweeping machine and for the control of dust generated from movement of heavy vehicles, anti-smog gun and dust suppressant used effectively.

Recommendation of the Joint Committee: -

Based on the aforesaid observations, the joint committee recommends followings:

i. A committee consisting of District Administration, Industry representative and villagers may be constituted by the Hon’ble NGT in order to plan and/or discuss about the resettlement and rehabilitation issue as per NPRR,2003 for village Jodhpura, as per condition no.2 (A-xvii) of Environmental Clearance was accorded to unit by MoEF and CC, GoI vide letter dated 17.08.2006.

ii. Public Works Department may be asked to submit the factual report regarding the formation of cracks due to the operation of industry and the compensation may be granted to the affected

people/houses after evaluation, if the damage is caused due to the blasting operation of the unit.

iii. District Administration may be asked to audit the works done by the industry under Corporate Social Responsibility for transparency and may continue the auditing periodically in order to restore the confidence of the villagers.”

35. In response to the above, the learned Counsel for the Applicant has argued that the habitation and primary school are located at the lesser distance and cracks are direct effects of the blasting. It is further stated that the cracks are visible in the new buildings also and since the Village-Jodhpura falls within the mining lease area in close proximity to the limestone mine, thus the residents of the Jodhpura are directly affected by air pollution and water pollution and cracks on their houses are direct effects of the blasting and no reason or cause has been shown by the Project Proponent. Accordingly, the Applicants are entitled for the reasonable compensation for the loss of their houses and damage.
36. Next question which has been raised by the learned counsel for the Applicant are conditions relating to ground water. It is argued that Specific Condition (xiii) of EC dated 30.04.2010 states that if at any stage, it is observed the ground water table is getting depleted due to the mining activity, necessary corrective measures shall be carried out. The Specific condition (xiii) of EC dated 30.04.2010 states as follows:-

“(xiii) Regular Monitoring of groundwater level and quality shall be carried out in and around the mine lease by establishing a network of existing wells and installing new piezometers during the mining operations. The periodic monitoring [(at least four times in a year- pre monsoon(April-May), monsoon (August). Post-monsoon(November) and winter (January); once in each season)] shall be carried out in consultation with the State Ground Water Board/Central Water Authority and the data thus collected may be sent regularly to the

Ministry of Environment and Forests and its Regional Office Lucknow, the Central Ground Water Authority and Regional Director, Central Ground Water Board. If at any stage, it is observed that the groundwater table is getting depleted due to the mining activity; necessary corrective measures shall be carried out.”

37. It is further stated that That as per the Specific condition (xiii), the project proponent is required to take necessary corrective measures if at any stage observed that groundwater table is getting depleted because of the mining activities. It is submitted by the Applicant organisation that there is steep decline in the groundwater table in the village of Jodhpura and the nearby villages ever since the mining operations began. It is stated that the bore-wells of the nearby villages have become nonfunctional due to the deterioration of the groundwater table, therefore required to be freshly dug and the fact of water scarcity was reported to the Respondent authorities by the villagers several time though various complaints. However, no measures were undertaken to combat the water scarcity by the project proponent or the respondent authorities. It is further stated that the People’s Committee report published in 2023 prepared and published by the by National Alliance of People’s Movement (NAPM) and People’s Union for Civil Liberties (PUCL) undertook a field study dated 08.04.2023 to 14.04.2023 with the support of the residents of Jodhpura-Mohanpura village and it was found that there is a strong correlation between the impact on groundwater and activities of limestone mines with crushers and it was observed that the ground water level went up to 700ft in the Jodhpura-Mohanpura village and has depleted the groundwater table significantly since the mining related work became operational. The relevant portion of the report is reproduced below:-

“A field study dated 08.04.2023 to 14.04.2023, conducted with the support of the residents of Jodhpura-Mohanpura village, highlights grave concerns about groundwater depletion in the region.....

.....

Figure 2 presents the analysis of depth of availability of groundwater across the four villages. It is clearly observed that the groundwater level in the Jodhpura-Mohanpura village (near the plant and mining site) has depleted since the mining and related work started in comparison to Kanwarpura and Kansali villages which are located further away...

.....

Only 10% of the groundwater sources in JodhpuraMohanpura village are operational, and that too, over a depth of 700feet. In contrast, groundwater is available at a depth of approximately 200feet in other sampled villages...”

38. It is further argued that the village of Jodhpura over the years has been is a severely over-exploited due to the mining activities. The Block-wise Categorization published by the Ground Water Regulatory Authority 2022, Kotputli is an over-exploited area. Further, the latest report of Central Groundwater Authority titled National Compilation on Dynamic Ground Water Resources of India published in 2023 demarcates the Tehsil Kotputli of Jaipur as Over-Exploited.
39. In response to the above contention, the learned Counsel for the Project Proponent has argued that the Applicant has relied on the People’s Union for Civil Liberties which have undertaken field studies and found that there is a strong correlation on the ground water and activities of limestone mines with crushers. It is argued that the aforesaid conditions are complied and allegations pertaining to the ground water depletion are baseless as narrated below:-

“(a) Specific condition number (xiii): The Answering Respondent is required to regularly monitor groundwater level and quality in and

around the mine lease by installing a relevant network of equipment. Such regular monitoring must be reported to the relevant authorities. Further, if it is observed that the groundwater table is getting depleted due to the mining activity, necessary corrective measures shall be carried out.

Compliance:

- It must be noted that the Answering Respondent has installed a total of eight piezometers spread around the area for ground water level monitoring.*
- Two piezometers have been installed in the mine area, two piezometers have been installed in the cement plant, two piezometers have been installed in the colony and two piezometers have been installed in the nearby villages. Monitoring of groundwater through such piezometers is carried out using water level meter/sounder on monthly basis and AWRL as per the Guidelines issues by the Central Ground Water Authority ("CGWA") dated 16 November 2015.*
- Besides the aforesaid, monitoring of groundwater level is also being carried out periodically during pre-monsoon (April-May), monsoon (August), post-monsoon (November) and winter (January) by third-party experts in the study of ground water.*
- The analysis of the quality of groundwater is being carried out twice a year i.e. pre-monsoon (April-May) and post-monsoon (November) by an accredited lab.*
- Furthermore, the Answering Respondent ensures that the rainwater falling in the mining area is collected within the mining lease area for rainwater harvesting or groundwater recharge.*
- It must also be noted that the groundwater abstraction in the area is roughly around 85% of the total groundwater abstraction whereas the industrial and domestic groundwater abstraction is only about 13%.*
- The total groundwater requirement of the Answering Respondent is 3000 KLD or 1095000 KLY till the year 2022 which has been reduced to 2080 KLD due to the efforts of the Answering Respondent. Such efforts include adopting various water conservation technologies and replacing the use of groundwater with mine pit water.*
- In any event, the groundwater abstraction by the Answering Respondent is only about 0.85% of the total groundwater requirement*

in the area and as such, depletion of groundwater cannot be solely attributable to the Answering Respondent.

- The Answering Respondent has also invested in rainwater harvesting and has installed 22 rainwater harvesting structures inside and outside its premises.*
- Further, 4 ponds have been constructed for groundwater rejuvenation in nearby villages.*

(b) Insofar as the Applicant's reliance on the study by PUCL and NAPM are considered, it is submitted that as per the resources of the CGWA itself, it is established that Kotputli is an over-exploited area. In view thereof, stringent measures for groundwater replenishment and rainwater harvesting were provided to the Answering Respondent as conditions to its EC. The Answering Respondent ensures compliance with the said conditions in its EC and is only abstracting groundwater in terms of its consents. Further, it is taking proactive and additional measures to replenish groundwater resources and reduce its dependency on groundwater at a swift pace."

40. In response to the above, the learned Counsel for the Applicant has submitted a letter dated 21.01.2024 was written to the Kotputli, Collector by the Applicant seeking to undertake investigation of damage and also highlighted the damages caused due to the heavy blasting. The relevant portion of the letter is reproduced below:-

v. That heavy blasting very close to the population causes earthquake-like vibrations due to which incidents like cracks in houses, falling of pillars, balconies etc. are taking place. Due to which common villagers are forced to live under the shadow of fear even in their homes.

vi. That due to heavy blasting, stones keep falling into the populated areas (houses) of the village, many times causing huge loss of life in the village.

vii. That due to heavy blasting recently on 03.10.2023, stones have fallen in the houses of Shri Boduram, Lakshminarayan and Leelaram Yadav, FIR for which has been registered in PS Sarund on

06.10.2023. FIR number is 0269 on this incident today no action has been taken till date.

viii. That due to the Govt Higher Primary School of the village being very close to the heavy blasting area, stones have once or twice fallen on the school premises, creating an atmosphere of fear among the students.

41. It is further submitted that the frequent heavy blasting activities have also caused tickling sounds in the ears of the villagers and resulted in hearing impairment to some villagers. It is stated that based on the complaints received from villagers of Jodhpura, the PWD formed a Joint Committee and a survey was undertaken in 211 houses of village of Jodhpura (Mohanpura) on 27.12.2022 and 30.12.2022. The Preliminary report submitted by the Public Works Department (PWD) dated 11.01.2023 found that several of the houses had cracks in the wall, roof, stairs, terrace. Further, strip of roof was found to be broken or there were gaps in the wall.
42. It is stated that the Respondent No.8 is involved in a dangerous activity of drilling deeply into the earth and causing vibration at such distances so as to cause cracks in the walls of the houses owes absolute and non-delegable duty towards the people that the activity does not harm to the people. This principle was propounded by the Hon'ble Supreme Court in *M.C. Mehta and Anr. Vs. Union of India & Ors.* [1987 SCR (1) 819] and held:-

“We are of the view that an enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the activity

which it has undertaken. The enterprise must be held to be under an obligation to provide that the hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of such activity, **the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part.** Since the persons harmed on account of the hazardous or inherently dangerous activity carried on by the enterprise would not be in a position to isolate the process of operation from the hazardous preparation of substance or any other related element that caused the harm must be held strictly liable for causing such harm as a part of the social cost for carrying on the hazardous or inherently dangerous activity. **If the enterprise is permitted to carry on an hazardous or inherently dangerous activity for its profit, the law must presume that such permission is conditional on the enterprise absorbing the cost of any accident arising on account of such hazardous or inherently dangerous activity as an appropriate item of its over-heads.** Such hazardous or inherently dangerous activity for private profit can be tolerated only on condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of the carrying on of such hazardous or inherently dangerous activity regardless of whether it is carried on carefully or not. **This principle is also sustainable on the ground that the enterprise alone has the resource to discover and guard- against hazards or dangers and to provide warning against potential hazards.** We would therefore hold that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such hazardous or inherently dangerous activity resulting, for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-a-vis the tortious principle of strict liability under the rule in *Rylands v. Fletcher* (supra).”

43. As per the Bureau of Indian Standards for drinking, permissible standards of drinking water specifications are as follows:-

<u>Parameter</u>	<u>Acceptable Limit</u>
Total Alkalinity	200
Total Hardness	200
Calcium Hardness	75
Magnesium Hardness	30
Chloride	250
Nitrate	45
Fluoride	1.0
Total Dissolved Solids	500

44. It is stated that vide letter dated 03.07.2024, the office of the Chief Minister had directed the authorities to undertake water analysis of the mining affected area. Accordingly, the Office of the Chief Chemist Public Health Engineering Department took water samples from tube wells of few houses of the villagers, public tank, and open mines of Ultra Tech factory. The samples were analyzed and the report dated 01.10.2024 was prepared and the report clearly shows that the parameters such as Total Alkalinity, Total Hardness, Calcium hardness, chloride, Nitrate and the Total Dissolved Solids are exceeding the parameters. The Applicant herein is reproducing the relevant portion of the sample report (Parameters in bold are exceeding the Bureau of Indian Standards for drinking water):

Sl No.	Name of the village	Source	Location of the Source	Parameters found in the sample
1	Mohanpura	Tube Well	Kailash Yadav House	Total Alkalinity:- 270 Total Hardness:- 340 Calcium Hardness:- 160 Magnesium Hardness:- 180
				Chloride:- 300 Nitrate:- 115 TDS:- 1330
2	Mohanpura	Tanker	Tanker No. RJ32RA9354, Lilaram Yadav	Total Alkalinity:-140 Total Hardness:-180 Calcium Hardness:- 90 Magnesium Hardness:- 90 Chloride:-60 Nitrate:- 50 TDS:-420
3	Mohanpura	Tube well	Dharampal Yadav House	Total Alkalinity:- 340 Total Hardness:- 280 Calcium Hardness:- 190 Magnesium Hardness:- 90 Chloride:- 300 Nitrate:- 126 TDS:- 1680
4	Mohanpura	GLR	Public Tanki, Jogyon Ka Mohalla	Total Alkalinity:- 290 Total Hardness:- 300 Calcium Hardness:- 160 Magnesium Hardness:- 140 Chloride:- 260 Nitrate:- 108 TDS:- 1400
5	Mohanpura	Tube Well	Lilaram Yadav House	Total Alkalinity:- 240 Total Hardness:- 280 Calcium Hardness:- 120 Magnesium Hardness:- 160 Chloride:-160 Nitrate:- 77 TDS:- 840
6	Mohanpura	WTP	Aditya Birla Cement Factory	Total Alkalinity:- 200 Total Hardness:- 240 Calcium Hardness:- 90 Magnesium Hardness:- 150 Chloride:-110 Nitrate:- 52 TDS:- 630
7	Mohanpura	Open	Aditya Birla	Total Alkalinity:-120

45. It is further argued that it is clear from the report that the parameters such as - TDS, calcium hardness, total hardness, magnesium hardness and the presence of Nitrate is way beyond the prescribed standards, therefore, the water is highly contaminated. With regard to parameters laid down at the distance criteria, it is argued that minimum distance of 500 meters must be maintained. However, the guidelines are there.
46. It is further submitted that the two clauses in the 2018 RSPCB Guidelines cannot be read in isolation and have to be read together and when interpreting the clauses, the intention of the drafter has to be kept in mind and there is no reason for the distance clause to be added only for those stone crushers that have been established on a piece of land that was converted for this purpose and not for the stone crushers that are on already existing lands. There is no reasonable differentiation between the two cases. Therefore, when interpreting the two clauses, it is important to ensure that such interpretation is given that furthers the intention and aim of such social welfare statutes, and not restrict them. It is, however, stated that the village of Jodhpura was not notified as eligible for rehabilitation and resettlement as per the mineral exploration plan, as the village is located in a non-mineralised area and no mining activity will ever be undertaken in the Jodhpura and the area remains undisturbed till the end of mine life. However, it is submitted by the Applicant that village of Jodhpura is severely impacted due to the operation of limestone mines and crushers in close proximity. Owing to the close proximity of the limestone mines and crushers to the human habitation, the blasting activities cause severe ground vibration which resulted in the formation of cracks in the walls, floors, ceilings of the houses and the Government Primary school which is clear from the

Report of the Public Works Department (PWD) dated 11.01.2023. It is stated that this is causing adverse impact on the health of villagers who are facing several health issues. It is also stated that jurisdictional issue of Hon'ble High Court of Madras does not arise as the impact of crushers on human lives is the same across the country and therefore, the distance of crushers from human habitation cannot have different impact on human lives in different States. Further, this Order has been upheld by the Hon'ble Supreme Court, thereby, clearing the jurisdictional issue for applicability in the State of Rajasthan.

47. It is further stated that in case of conflict between environment protection and economic development, environment protection takes precedence. In such a case, the Respondent No.8 has the responsibility of rehabilitating the people residing in Village Jodhpura. In the case of *M.C. Mehta vs Union Of India* (Civil Appeal No. 4677 of 1985 reported in (2004) 12 SCC 118, it was held that:-

“48. Development and the protection of environments are not enemies. If without degrading the environment or minimising adverse effects thereupon by applying stringent safeguards, it is possible to carry on development activity applying the principles of sustainable development, in that eventuality, the development has to go on because one cannot lose sight of the need for development of industries, irrigation resources and power projects etc. including the need to improve employment opportunities and the generation of revenue. A balance has to be struck. We may note that to stall fast the depletion of forest, series of orders have been passed by this Court in T.N. Godavarman's case regulating the felling of trees in all the forests in the country. Principle 15 of Rio Conference of 1992 relating to the applicability of precautionary principle which stipulates that where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for proposing effective measures to prevent environmental degradation is also required to be kept in view. In such matters, many a times, the option

to be adopted is not very easy or in a straight jacket. If an activity is allowed to go ahead, there may be irreparable damage to the environment and if it is stopped, there may be irreparable damage to economic interest. In case of doubt, however, protection of environment would have precedence over the economic interest. Precautionary principle requires anticipatory action to be taken to prevent harm. The harm can be prevented even on a reasonable suspicion. It is not always necessary that there should be direct evidence of harm to the environment.”

48. It is further argued that in *T.N. Godavarman Thirumulpad v. Union of India & Ors.* (I.A. No. 61370 of 2021 [Report No. 06 Of 2021] In Application No. 1440 of 2020), the Hon’ble Supreme Court was dealing with the matter of doubling of existing railway line from Castlerock (Karnataka) to Kulem (Goa) for which a Wildlife Clearance was required to be taken. The Hon’ble Supreme Court opined on the interplay between economic development and environment protection and held that:-

“18. A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest. This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is not always necessary that there should be direct evidence of harm to the environment. 19. Keeping in mind the aforesaid principle of law on sustainable development and precautionary principle, we proceed to examine whether the recommendation made by the CEC should be accepted. Doubling of the railway line between Castlerock to Kulem is a part of the critical project undertaken by the Ministry of Railways in

the year 2011 in public interest. Whether the justification for doubling the railway line would outweigh the environmental concerns raised by the Goa Foundation which found favour with the CEC is the question that falls for determination. We are of the view that the CEC is right in its conclusion that the proposal for the doubling of the railway line between Castlerock to Kulem by NBWL should be revoked for the reasons as stated hereinafter.”

49. Next issue which has been raised by the learned counsel for the Applicant are maintenance of green belt. It is argued that the specific conditions (xiii), Standard Conditions (VIII)(29), and standard EC Conditions of EC dated 16.01.2023 for mineral beneficiation plants(3) states as follows:-

“A. Specific Conditions

xiii. The project proponent should ensure the survival rate of 95% for planting the new plantation and gap plantation. The project proponent should plant quality sapling of the appropriate height of native and fruit-bearing species. In case of tall transplants, the seedling should have proper trained root stock.....project proponent should complete the 7.5m boundary plantation within next monsoon season.

B. Standard conditions

VIII GREEN BELT

29) the project proponent shall develop greenbelt in 7.5m wide safety zone all along the mine lease boundary as per the guidelines of CPCB in order to arrest pollution emanating from mining operations within the lease. The whole Green belt shall be developed within first 5 years starting from windward side of the active mining area. The development of green belt shall be governed as per the EC granted by the Ministry irrespective of the stipulation made in approved mine plan.

31. the project proponent shall make necessary alternative arrangement for livestock feed by developing grazing land with a

view to compensate those areas which are coming within the mine lease. The development of such grazing land shall be done in consultation with the State Government.....The sparse trees on such grazing ground, which provide mid-day shelter from the scorching sun, should be scrupulously guarded/ protected against felling and planation of such trees should be promoted.

C.STANDARD EC CONDITIONS FOR MINERAL BENEFICIATION PLANTS 3) Green Belt shall be developed in an area equal to 33% of the plant area with a native tree species in accordance with CPCB guidelines. The Greenbelt shall inter alia cover the entire periphery of the plant”

50. It is further argued that the standard conditions VIII (29) of the states that greenbelt shall be developed in 7.5m wide along the mine lease boundary to arrest pollution emanating from the mining operations. However, the Applicant submits that there is inadequate green belt around the boundary of the mine lease area. The Applicants herein did an onground survey of the trees planted and it is approximately 18,000 against the 66,000 that are required to be planted. As per the EC conditions green belt shall be developed in an area equal to 33% of the plan area, and native tree species has to be planted as per the CPCB guidelines. The non-native species like Cassia Siamea- Acacia and Holoptelea integrifolia which are resilient, fast-growing and needs less maintenance were planted by the project proponent. However, these non-native species of trees are harmful to the local biodiversity in ways like providing food, shelter and habitat for native species. In addition to that the project proponent should ensure 95% of the survival rate for planting the new plantations and, therefore, violating the condition no.29, (C)(3). It is further stated that the condition no. 31 states that project proponent shall make necessary alternative arrangement for livestock feed by developing grazing land with a view to compensate those areas which are

coming within the mine lease area. However, no necessary alternative was undertaken by the project proponent as a result of which the livelihood of the Applicant was severely affected. The decline in livestock population in village of Jodhpura is attributed to the unavailability of grazing land and, therefore, adversely impacting the livelihood of the villagers.

51. It is further submitted that the Standard Conditions V (21) and VI (23) of the EC dated 16.01.2023, stipulate that the Project Proponent shall adhere to the approved mining plan while dumping the O.B. dump waste. The EC conditions are reproduced here for reference:-

“B. Standard conditions

V. Mining Plan

21)The project proponent shall adhere to approved mining plan, inter alia, including total excavation (quantum of mineral, waste, overburden, inter burden and topsoil etc.); mining technology; lease area; scope of working(method of mining, overburden & dump management, O.B & dump mining, mineral transportation mode, ultimate depth of mining concurrent reclamation and reclamation at mine closure; land-use of the mine lease area at various stages of mining scheme as well as at the end-of-life; etc.)

VI. Land Reclamation

23) The overburden (O.B.) waste and topsoil generated during the mining operations shall be stacked at earmarked OB dump site(s) only and it should not be kept active for a long period of time. The physical parameters of the OB/waste dumps/topsoil dump like height, width and angle of slope shall be governed as per the approved Mining Plan and the guidelines/circulars issued by D.G.M.S. the Topsoil shall be used for land reclamation and plantation.”

52. It is further argued that the Project Proponent was granted Consent to Operate the major mineral by the Rajasthan Pollution Control Board on 07.04.2022 under S.25 of the Water (Prevention and Control of Pollution)

Act, 1974 and under S.21 of the Air (Prevention and Control of Pollution) Act, 1981. The following consent conditions no.9, 11, 12, 15 and 18, dated 07.04.2022 are violated and it states as follows:-

“9. That plantation shall be developed so as to cover at least 33% of the total land use for mining and allied activities as given in Approved Mining Plan and shall be maintained at all the time to maintain Ambient air quality around the mine. 11. that haul roads should be regularly graded and compacted, Regular water sprinkling should be carried out on haul roads to minimize dust generations 12. That adequate measures shall be taken for control of fugitive emissions from the areas prone to air pollution 15. That regular water sprinkling should be carried out in critical areas prone to air pollution and having high levels of SPM and RSPM such as on haul road, loading and unloading points and transfer points. 18. that the mine shall not allow unauthorized disposal of any solid waste on land inside or outside the premises.”

53. It is further submitted that already an existing Crusher No.1 with 1600TPH capacity is within 500mtrs from the human habitation and is contributing to the deterioration of air quality. However, as per the knowledge of the members of the Applicant Organisation, there is no EC available on the public domain for this crusher. Therefore, crusher no.1 is also in violation to the guidelines issued by RSPCB. The crusher no.2 with 1600TPH capacity is being set up 110 mtrs from the human habitation and just 82mtrs from the Government Primary School, Kotputli. The Applicant is aggrieved by the stone crusher established within just 82mtrs from Government Primary School, Kotputli. It is stated that the potential impact of the stone crusher is threat of ground vibration and fugitive dust emissions and therefore will threaten the lives of children studying in the Primary School. It is stated that as per the

letter dated 22.02.2024 written to the Tehsildar, Kotputli by the Patwari, clearly states the following:-

“The minimum distance from Kansli Road to the houses of the population situated on the eastern side of Chowki Gordhanpura is 165 meters and the houses of the population are also situated on the west side of the said road towards the stone crusher and there is the settlement. The minimum distance of the crusher from here is 110 meters from one house and 155 meters from the other house. The work of boundary wall on the eastern boundary of the said stone crusher (towards the population) is under construction. The distance from this boundary wall (houses, school) was also measured; the minimum distance from the Govt School is at 82 meter.”

54. It is, however, stated that Rajasthan State Pollution Control Board (hereinafter “RSPCB”) issued guidelines for abatement and control of pollution in Stone Crusher Industry dated 05.06.2018 for the establishment of stone crushers. The guidelines issued by the RSPCB specify that stone crushers can be established on a Khatedari land duly converted for the establishment of stone crusher unit and in accordance with the relevant provision of Rajasthan Land Revenue Rules 2007. The 2007 Rules provide that no land can be permitted to be converted within 1.5 km of the outer limit of abadi village for stone crushers. The relevant portion states as follows:-

“1-GENERAL

i) New stone crusher may be established on a piece of land or Khatedari land “duly converted, for the purpose of establishment of stone crushing unit”, under relevant provisions of Rajasthan Land Revenue (Conversion of agricultural land for non-agricultural purposes in rural areas) Rules, 2007 and subsequent amendment rules, 2016 or on piece of land allotted by competent authority of State Government for establishment of stone crusher unit.

ii) Stone crusher units may also be established and operate on mining leases after obtaining and submit amended copy of Environment clearance including stone crushing activities within six month of the State Board, failing which consent to establish/or consent to operate accorded will be treated as revoked without further intimation to the unit”

55. It is also stated that new crusher may be established on a piece of land or Khatedari land duly converted for the purpose of establishment of stone crushing unit under relevant provisions Rajasthan Land Revenue (Conversion of agricultural land for non-agricultural purposes in rural areas) Rules, 2007 and subsequent amendment Rules, 2016. The relevant provision under Rajasthan Land Revenue (Conversion of Agricultural Land for Non-Agricultural Purposes in Rural Areas) Rules, 2007, subsequently amended in 2018. The Rule 4 speaks about land for which conversion not be permitted: it states as following:-

“4. Land for which conversion not to be permitted.- No permission shall be granted for conversion of the- (c) Land falling within the radius of 1.5 km of outer limits of abadi of a village for the purpose of an industrial unit or lime kiln or a crusher Unit or an Industrial area. This restriction shall not apply where the conversion is sought for the brick kiln or non-polluting industry, small or cottage industry. This restriction shall also not apply for the establishment of any class of industry within the radius as specified in the guidelines of Rajasthan State Pollution Control Board;”

56. It is stated that in *M/s DRG grate Udhyog v. State of M P through its Principal Secretary Department of Aawas and Paryavaran & Others*, O.A No.96 of 2012 dated 09.05.2013, this Court reiterated position of the Hon'ble Supreme Court position in *Kennedy Valley Welfare Association v. Ceylon Repatriates Laboureres Welfare and Service Society* Civil Appeal No. 10732 of 1995 dated 25.04.1996 and discussed in depth about the

expression “residential area” to include any area of human activity, even school premises connotes residential area. The Hon’ble Tribunal applied the maxim *Salus populi est suprema lex* which means “The Welfare of the people shall be the Supreme Law” to resolve the public interest and private interest conflict and thereby held stone crushers cannot be permitted within 500mtrs of the school area. The relevant observation in the judgment is reproduced below:-

“28.....the applicant must not, therefore, be permitted to carry on the stone crushing activity within 500metres of the school area. it is an admitted position before us that the distance between two schools and the stone crushing unit of the applicant is less than 500meters. Emission of dust and other particles from the stone crushing is inevitable. Its adverse impact on the health of the young children, teachers and staff is indisputable. Thus we see no reason to interfere with the order of the Board dated 11th August, 2011 and that of the Appellate authority dated 13th December, 2011.....”

57. It is stated that in *Mahendra Singh v. State of Rajasthan*, 2012 SCC OnLine Raj 2749, the High Court of Rajasthan has observed the following regarding operation of stone crushers:-

“.....it is worthwhile to mention here that in the present scenario, the ecological imbalances and the consequent environmental damage has become alarming due to reckless mining operations. Preservation of ecology, flora and fauna is necessary for human existence. There is great and urgent necessity to preserve ecology. There are complaints in Rajasthan that mining has become a menace. The scale of injustice occurring in Indian soil is catastrophic. In this scenario, in a large number of cases, the Apex Court intervened in the matter and issued directions from time to time in public interest to protect and preserve forest cover, ecology, environment, wildlife etc. from ill effects of mining.....

Let the Rajasthan State Pollution Control Board take a decision within a period of ten days from today. In case, if it is found that

crushers are operating beyond 1.5 km. area, only then operation can be permitted, not otherwise. The stone crushers, which are running within 1.5 km. area, as per the report of Special Investigation Committee, we order closure, none of aforesaid crushers within the distance of 1.5 km. shall be permitted to be operated, till final decision is taken by the Rajasthan State Pollution Control Board on show cause notices. Other violations may also be considered by the Rajasthan State Pollution Control Board.”

58. It is further argued that the Section 22 of the Air (Prevention and Control of Pollution) Act, 1981, states that persons carrying on industry are not allowed to emit air pollutants above the standards laid down by the State Board. The air emitting from limestone mining and crushers was beyond the prescribed standards and therefore resulted in impacting the health of the residents of Jodhpura Village. The Section 22 states as follows:-

*22. Persons carrying on industry, etc., not to allow emission of air pollutants in excess of the standard laid down by State Board.—No person 1**** operating any industrial plant, in any air pollution control area shall discharge or cause or permit to be discharged the emission of any air pollutant in excess of the standards laid down by the State Board under clause (g) of subsection (1) of section 17.”*

59. It is further argued that as per the Mineral Development and Concession Rules, 2017, there are rules to be followed by mine leaseholders while undertaking mining activities and limestone used for industrial purposes is a major mineral and, therefore, the Mineral Conservation and Development Rules, 2017, apply and as per the rules, the mine leaseholder i.e. the project proponent was required to undertake responsibility to ensure that mining activities are not detrimental to the life, property, or environment. The Rules 35, 38, 40, 42, 43 which stress sustainable mining and precautions against ground vibrations, air

pollution, and noise, are also violated by the Project Proponent, which states as follows:-

35. Sustainable mining. – (1) Every holder of a mining lease shall take all possible precautions for undertaking sustainable mining while conducting prospecting, mining, beneficiation or metallurgical operations in the area.....

.....

38. Precaution against ground vibrations.– Whenever any damage to public buildings or monuments is apprehended due to their proximity to the mining lease area, the holder of the mining lease shall carry out scientific investigations so as to keep the ground vibrations caused by blasting operations within safe limit.

40. Precaution against air pollution.– Every holder of prospecting licence or a mining lease shall take all possible measure to keep air pollution due to fines, dust, smoke or gaseous emissions during prospecting, mining, beneficiation or metallurgical operations and related activities within permissible limits.

42. Precaution against noise.– The holder of prospecting licence, prospecting license cum mining lease or a mining lease shall take all possible measure to control or abate noise arising out of prospecting, mining, beneficiation or metallurgical operations at the source so as to keep it within the permissible limits.

43. Permissible limits and standards.– The standards and permissible limits of all pollutants, toxins and noise referred to in rules 40, 41 and 42 shall be such as may be notified by the concerned authorities under the provisions of the relevant laws for the time being in force.”

60. It is further submitted that as per Section 15 of the National Green Tribunal Act, 2010, the Tribunal has the power for restitution of environment for such area or areas. Further, Section 15(4) states that the Tribunal may have regard to the damage to the public health, property and environment while dividing the compensation or relief payable under separate heads specified in Schedule II to provide compensation or relief

to the claimants and for the restitution of the damaged property or environment. The relevant portion is reproduced below:-

“S.15 (1) The Tribunal may, by an order, provide,---

(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I (including accident occurring while handling any hazardous substance);

(b) For restitution of property damaged

(c) For restitution of the environment for such area or areas.

(4) the Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.”

61. The Hon’ble Supreme Court in *Mantri Techzone (P) Ltd. v. Forward Foundation*, (2019) 18 SCC 494 observed that the power vested under S.15(1)(c) of the NGT is an entire island of power and jurisdiction as follows:-

“43. Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of the sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.”

62. It is stated that the CPCB has published a formula/ methodology for Assessing Environmental Compensation as per the directions issued by the Hon’ble National Green Tribunal in *Parayavaran Suraksha Samiti &*

Anr v. Union of India & Ors., O.A No. 593 of 2017. The formula derived for the calculation of the Environmental Compensation is as follows:-

$$EC = PI * N * R * S * LF$$

Where,
EC is Environmental Compensation in ₹
PI = Pollution Index of industrial sector
N = Number of days of violation took place
R = A factor in Rupees (₹) for EC
S = Factor for scale of operation
LF = Location factor”

Therefore, the Tribunal may consider the above formula to quantify the emissions emitted by the project proponent into the air which caused severe deterioration of air quality and thereby utilise the environmental compensation for the restoration of the environment.”

63. It is further stated that there is responsibility vested in the regulatory bodies to ensure compliance of the EC and consent conditions granted to the project proponent. However, failure to ensure compliance has resulted in large scale damage to the villagers of Jodhpura. In *Intellectuals Forum v. State of A.P.*, (2006) 3 SCC 549 it was held that the responsibility of the State to protect the environment is a well accepted notion of International law:-

“67. The responsibility of the State to protect the environment is now a well-settled notion of international law, gave rise to the principle of “State responsibility” for pollution emanating within one’s own territories (Corfu channel case) This responsibility is clearly enunciated in the United Nations Conference on the Human Environment, Stockholm 1972 (Stockholm Convention), to which India was a party. The relevant cause of this declaration in the present context is para 2, which states: “the natural resources of the earth, including the air , water, land and flora and fauna and especially representative samples of natural eco systems, must be safeguarded

for the benefit of present and future generations through careful planning or management as appropriate.” Thus, there is no about the fact that there is a responsibility bestowed upon the Government to protect and preserve the tanks, which are important part of the environment of the area.”

64. It is further submitted that due to the inaction of the Officers, the fundamental rights of the citizens have been violated. In *MCD v. Uphaar Tragedy Victims Assn.*, (2011) 14 SCC 481, the Hon’ble Supreme Court observed that inaction of the state or its officers is the liability of the State:-

“96. Courts have held that due to the action or inaction of the State or its officers, if the fundamental rights of a citizen are infringed then the liability of the State, its officials and instrumentalities, is strict. The claim raised for compensation in such a case is not a private law claim for damages, under which the damages recoverable are large. The claim made for compensation in public is for compensating the claimants for deprivation of life and personal liberty which has nothing to do with a claim in a private law claim in tort in an ordinary civil court.”

65. It is stated that in *Amol Vitthalrao Kadu v. State of Maharashtra* (2019) 13 SCC 595 has reiterated the observation made in *D.K. Basu v. State of W.B.* (1997) 1 SCC 416 as follows:-

“54. Thus, to sum up, it is now a well-accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer.....”

66. It is further stated that the Respondent Authorities cannot escape from the liability to pay compensation for the failure to undertake public duty. In “In Re: News item published in Newspaper The Hindu dated 07.03.2023 titled “*Three children die during illegal mining in West Bengal*” O.A No. 204/2023 the Tribunal held that the State cannot avoid the responsibility for compensating the victims of negligence of its authorities in enforcing the rights of the victims:-

“4. Thus, it is clear from para 3 that deceased have been identified as Monu, aged 20, Somal and Rohit, aged 15 each and injured has been identified as Naresh Sahani. Mining activity was illegal and children were illegally engaged. There was failure on the part of the State to enforce applicable regulatory regime for the hazardous activity in question. Compensation of ₹2 Lakh each has been given to the heirs of the three deceased and ₹25,000/- for the injured by the State. No steps have been taken for recovery of compensation from the violator as per environmental law nor compensation paid to the victims is as per any reasonable basis. Even criminal case against the violator is not for theft of mined material nor for violation of environmental norms. Thus, the State cannot avoid responsibility for compensating the victims in view of negligence of its authorities in enforcing the rights of the victims by using its regulatory authority in controlling illegal hazardous activities.

7. In the present case, death of the children is patently due to violation of established norms. The State Authorities failed to enforce the law and prevent the incident. Apart from illegal engagement of children, the mining in the river bank is not shown to be by any Authority of Law, such as, mining lease, replenishment study, DSR and Environment Clearance. No safeguards have been used in the process. Thus, the State cannot escape liability for violation of environmental norms. While primary liability is of the persons engaged in illegal mining on ‘Absolute Principle’ laid down in M.C. Mehta vs. Union of India & Ors., (1987) 1 SCC 395, when the violators have not been made to pay, it is the liability of the State to pay the compensation and recover the same from the violators.

Liability for compensation is in addition to liability under the Criminal Law.”

67. Further in *Meghashyam Sadashivrao Vadhave v. State of Maharashtra*, (2017) 13 SCC 681, this Hon’ble court has made the parties jointly and severally liable for the compensation in the light of vicarious liability of the act committed by the officers of the State:-

“14.The State would be vicariously liable for the act of its officers. In light of that, the respondents are jointly and severally liable for the compensation amount of Rs. 15,000 (Rupees fifteen thousand only) to the petitioner.....”

68. Furthermore, in *Centre for Public Interest Litigation v. Union of India*, (2013) 16 SCC 279 the Hon’ble court observes that the paramount duty is cast on the States and its authorities to achieve an appropriate level of protection to human life and health:-

"25..... A paramount duty is cast on the States and its authorities to achieve an appropriate level of protection to human life and health which is a fundamental right guaranteed to the citizen under Article 21 read with Article 47 of the Constitution of India.”

69. In reply thereof, the learned Counsel for the Project Proponent has argued that with regard to green belt, it is alleged that the specific condition number (xiii) of the EC and standard condition number (VIII) (29) have been violated. The aforesaid conditions stand fully complied with as demonstrated below:-

“(a) Specific condition number (xiii) and standard condition number (VIII) (29): The Answering Respondent is required to ensure a survival rate of 95% for its new plantation and gap plantation. The Answering Respondent is required to plant appropriate species including fruit-

bearing species. Further, a boundary of 7.5m plantation was required to be maintained by the Answering Respondent.

Compliance:

- It is submitted that the plantation/ development of the green belt is an ongoing program. The plantation has been developed around the safety zone around areas of mining activities i.e. around the ultimate mine pit limit, the waste dump, along sides of the roads, in and around the offices, etc.
- As per the approved mining plan, the Answering Respondent has planted native species duly authenticated by the Range Forest Officer, Kotputli. These native species include Neem, Kala, Siris, Karanj, Shisham, Gulmohar, etc.
- Further, as directed, the green belt covering 7.5m covering an area of 8.2 ha has been developed in a phased manner as per the approved mining plan.
- In the year 2023-2024, 4000 saplings were planted and in the current year during the monsoon season, approximately 35,000 saplings have been planted, with a survival rate of 95%.
- In total, till date, 1,40,000 plants have been planted, which includes different native species covering 58.15 hectares of mining lease area.
- Importantly, at present, the total land put to use for mining and allied activities is about 142.76 hectares, of which about 39.91% has been converted into a green belt. Thus, the requirement of 33% area to be converted to a green belt has been exceeded.
- In any event, it is submitted that plantation and green belt development shall be continued till the end of the mine life as per the approved Mining Plan.
- With respect to the green belt and the plantation undertaken by the Appellant, it is most pertinent to highlight the recent untoward incidents that have occurred at the behest of the villagers, including members of the Applicant.
- In the month of January, roughly 5000 fully-grown trees were intentionally cut and destroyed by the villagers. The occurrence of such events was immediately reported to the Collector of Kotputli vide a letter dated 16 January 2024 as well as to the Deputy Superintendent of Police and Forest Authorities. Complaint for the same was also lodged by the Answering Respondent with the grievance portal of the state government.”

70. It is further stated that with respect to the dumping of waste, it is alleged that standard condition numbers (V) (21) and (VI) (23) of the EC have been violated. The aforesaid conditions require the Respondent to adhere to the mining plan for disposal of its overburden wastes and topsoil generated. In respect of these conditions, the Applicant alleges that by way of an inspection report dated 16 May 2017, the IBM had notified certain discrepancies in the slight deviation of the area chosen for overburden waste dumping, etc., therefore causing soil, air and water pollution. The compliance of which is as follows:-

“Compliance:

- *It is submitted that the reliance of the Applicant on the 2017 report is inconsequential as the Answering Respondent is subjected to quarterly inspections by IBM wherein any minor discrepancies such as the one pointed out in the 2017 Report are notified. Thereafter, the Answering Respondent is given recommendations to address the same leading to closure of such issues.*
 - *It is submitted that the Answering Respondent strictly follows the mining plan. The overburden and the interburden dump generated during the mining operation are being stacked at designated places within the mining lease area.*
 - *Such dumps are being maintained and stabilised in a phase-wise manner.*
 - *The physical parameters of the waste dumps such as the height, width, angle, etc. of the slope are also strictly maintained as per the mining plan and the guidelines of the DGMS.*
 - *It is noteworthy to mention that a slope stability study has also been carried out by the Central Institute of Mining and Fuel Research which notes that overall safe slopes of dump are being maintained regularly.*
 - *Part area of the overburden clay dump has been covered with vegetation of suitable native species and the topsoil generated is being used simultaneously for land reclamation or plantation work.*
- (B)The limestone mine is being operated in violation of the consent granted under the Air Act and the Water Act.”*

71. It is further argued that the contention of the learned Counsel for the Applicant with regard to violations of other conditions are baseless and misconceived which is as follows:-

“(a) Condition number 9 deals with the requirement to develop at least 33% area of the total land use for mining and allied activities as a green belt.

Compliance: As explained in the earlier sections of this Reply, the Answering Respondent duly maintains a green belt of over 33% and is fully compliant with the requirement.

(b) Condition numbers 11, 12 and 15 deal with the requirement to minimise fugitive emissions and carry out water sprinkling in areas prone to air pollution to minimise dust generation.

Compliance: As explained in earlier sections of this Reply, the Answering Respondent maintains pucca haul roads and regular water sprinkling is carried out on the roads by permanently affixed water sprays as well as by water tankers. Pictures of the same have also been annexed as Annexure R-17 to this Reply.

(c) Condition number 18 deals with the requirement to ensure solid waste is not disposed of unauthorisedly on land inside or outside the premises.

Compliance: The Answering Respondent practices segregation of solid waste at the point of generation itself and disposes of the same through scientific methods. Furthermore, wastes generated from mining such as overburden dumps are duly dealt with in accordance with the mining plan which is under regular scrutiny of the IBM and therefore, there are no violations of condition number 18 of the CTO.”

72. Learned Counsel for the Respondent has further argued that crushers are not required to obtain EC but it does not mean that the Unit may pollute the air or water or by activities of blasting they may have right to damage the houses violating the fundamental rights of the citizens.

73. It is to be noted that the Central Pollution Control Board vide guidelines issued in June, 2023, specifying the Environmental Guidelines for Stone Crushing Units which is as follows:-

“Environmental Guidelines for Stone Crushing Units

.....X.....X.....X.....X.....

5.1 General Measures

- i. Wind breaking wall: GI/MS/brick wall should be provided along the periphery of crusher. Height of the wall should be 3-ft more than the highest node of the crusher.*
- ii. Roads: Metaled/concrete roads should be provided within the premises. Ramps and the entire ground area inside the premises should also be metaled.*
- iii. Housekeeping: To curb the air pollution in the crusher premises, arrangement of rotating water sprinkling system/fogger/Anti-smog gun should be provided. Fine dust accumulated and bag filters in the crushing area should be cleaned at regular intervals and the collected dust should be stored in sacks for further sale or disposal.*
- iv. Plantation: 2-3 rows of tall trees should be planted around the periphery of crusher.*
- v. Housing should be open for movement of mechanical drivers, conveyor belts, etc. should be sealed properly with flexible rubber flaps.*
- vi. Name of the unit, contact details of the owner and address of the unit, plant capacity and date of issue of CTE/CTO from SPCBs/PCCs should be displayed on the display board at the entrance.*
- vii. Transportation: Vehicles carrying any kind of material should be completely covered.*
- viii. Regular wetting of roads should be done to suppress dust within the premises to control dust emission re-suspension.*
- ix. Water consumption and handling: Unit should provide settling tanks of appropriate size and recycle & reuse of the water in process. Crusher should provide a water storage tank with adequate capacity. In case of use of groundwater, stone crushing unit should obtain permission to extract groundwater from the Central Ground Water Authority (CGWA)/Ground Water Department (GWD) of the State/UT. Unit should maintain proper log book of consumption of fresh water.*

Depending on availability, efforts may be made to use STP treated water instead groundwater to control emissions from process activities.

6.Regulatory/Monitoring Mechanism for Stone Crushing Unit

- i. Stone crushing unit should obtain Consent to Establish (CTE) and Consent to Operate (CTO) from the concerned SPCB/PCC.*
- ii. Stone crushing unit shall comply with emission norms prescribed under the Environment (Protection) Rules, 1986 and conditions laid down in CTO by concerned SPCB/PCC.*
- iii. Online/manual ambient air monitoring systems to be installed in crusher zone as per CPCB/SPCB guidelines – in upwind and downwind directions.*
- iv. Stone crushing unit should develop green belt as per the plan approved by concerned Department of the State/UT.*
- v. Local authorities should associate with stone crusher associations for the construction of metalled road in the entire crusher zone.*
- vi. A District Level Committee should be constituted under chairmanship of District Magistrate/Deputy Commissioner so that surprise inspections for surveillance of stone crushing units located under their jurisdiction can be carried out on regular basis.*
- vii. Health survey of workers should be carried out by the stone crusher on half yearly basis.*
- viii. New Crushers should be allowed to operate only in dedicated crusher zones as per the siting policies of SPCBs/PCCs.”*

74. The main thrust on the distance criteria as argued by the learned Counsel for the Applicant are that the guidelines issued by the RSPCB and the Land Revenue Rules provide the 1500 distance from the human habitation in compliance of the Land Revenue Rules.
75. The submissions of the learned Counsel for the Respondent/Project Proponent are that the Land Revenue Rules are not applicable while the submissions of the learned Counsel for the Applicant are that when rules are framed for the interest of the public, it is meant to be complied with by the Respondent/Project Proponent and the order of the Hon'ble

Supreme Court Madras directing the minimum distance of 500 meters must be maintained between a residential area in all existing crushers.

76. With regard to air quality, it is argued that real time emission data installed in the plant premises which is available on the website of the State PCB under the Online Continuous Emission Monitoring System (OCEMS), clearly shows that the concentration of PM₁₀ and PM_{2.5} around the area is very high and further that PM₁₀ and PM_{2.5} are also higher than the standards set in NAAQMS. It is further stated that the permissible average 24hrs standard of PM₁₀ is 100 and that of PM_{2.5} is 60 as per the National Ambient Air Quality Monitoring Standards (NAAQMS) and prolonged exposure to the particulate matter at such high levels is very harmful to the human body and can cause severe health impacts. It is stated that due to the prolonged exposure of particulate matter the health of the villagers was severely affected resulting in contraction of various respiratory, skin and eye diseases. It is also stated that the Respondent No. 8 has permissions to undertake blasting activities within 300m and beyond 100m distance from any permanent building or structure of permanent nature:-

“Jodhpura village was located at a distance of about 232m from the present mine workings of the mine. Therefore, management has obtained permission under Regulation 164(1-B) (a) of the Metalliferous Mines Regulations, 1961 vide this Directorate’s letter No. 360971/NWZ/Ajmer Region1/Perm/2023/258045 dated 20.10.2023 (Copy enclosed as Annexure-II) on the basis of recommendations of scientific study conducted by AKS University, Satna (MP) and report submitted vide Ref. No GK/GKH/7130523282, to conduct controlled blasting within 300m and beyond 100m distance from any permanent building or structure of permanent nature, not belonging to owner of the mine.”

77. Further that these distances are not only beyond the permitted distances but also not at the locations where the Applicant has alleged blasting activities to be taking place which are causing cracks in buildings and the formation of cracks in the houses of the villagers are attributed to the blasting activities and the ground vibrations as there is no other identified reason for the cracks. In the absence of scientific certainty, Respondent No.8 shall be liable for the damages as has been held by the Hon'ble Court in Balakrishnan Vyas v. State of Rajasthan O.A No. 288 of 2019. The relevant part of the observation is reproduced below:-

10. Thus, once it is found that there are cracks in the vicinity of mining using blasting and there is no identified other reason for the blasts, absence of scientific certainty to show that the blasting is the reason cannot be a ground to assume that no preventive or remedial measures are to be taken for protecting the environment and the inhabitants. Burden of proof is on the project proponent. There is no data to show that such cracks are happening in other areas where blasting is not taking place. On principle of res ipsa loquitor, blasting has to be taken as a cause for the cracks, as submitted by the State PCB in its initial report mentioned earlier which annexed the report from the Geological Survey of India that more than 375 buildings had suffered damage which appeared to be due to local shaking and vibration. Thus, the approach in the three Experts study mentioned above that in absence of clear scientific proof of correlation of blasting and cracks in housing, damage could not be attributable to the blasts is against the principles of Environmental law to be applied by this Tribunal and to 16 that extent the reports cannot be accepted. However, the Recommendations for expert supervision of the blasting operations and for rehabilitation of the affected victims are acceptable.”

78. With regard to rehabilitation, it is argued that the Respondent No.8 at para 22 of the reply stated that the village of Jodhpura was not notified as eligible for rehabilitation and resettlement as per the mineral

exploration plan, as the village is located in a non-mineralised area and no mining activity will ever be undertaken in the Jodhpura and the area remains undisturbed till the end of mine life. However, it is submitted by the Applicant that village of Jodhpura is severely impacted due to the operation of limestone mines and crushers in close proximity and owing to the close proximity of the limestone mines and crushers to the human habitation, the blasting activities cause severe ground vibration which resulted in the formation of cracks in the walls, floors, ceilings of the houses and the Government Primary school which is clear from the Report of the Public Works Department (PWD) dated 11.01.2023.

79. The submissions of the learned Counsel for the State PCB are that the air quality is regularly monitored and necessary actions are being initiated to take remedial measures and that the Project Proponent has not covered Jodhpura Village under the Resettlement and Rehabilitation Policy and it is for the State Government to formulate a policy on that point.
80. The submissions of the learned Counsel for the Respondent No.2, State of Rajasthan, are that as required under Clause 6.19 of the National Rehabilitation and Resettlement Policy, 2007, the financial responsibility for the rehabilitation and resettlement scheme lies unequivocally with the Project Proponent and the Project Proponent is obligated to deposit one-third of the rehabilitation and resettlement costs upfront with the Administrator, ensuring the availability of resources to address the welfare of displaced families. Moreover, Rule 29(14) of the Rajasthan Minor Mineral Concession Rules, 2017, mandates leaseholders to provide financial assurances, underscoring the legal requirement for implementing protective and reclamation measures effectively. This

alignment of financial obligations with regulatory frameworks ensures accountability while safeguarding community interests which is being followed by the Project proponent. It is further stated that under Clauses 3(b) and 6.19 of the National Rehabilitation and Resettlement Policy, 2007, the District Collector, in the capacity of Administrator for Rehabilitation and Resettlement, is charged with ensuring the execution of schemes funded by the requiring body and this administrative responsibility guarantees the systematic rehabilitation of affected families impacted by the mining operations. Furthermore, while the State Government supervises compliance with this policy, it bears no financial burden for its implementation. This dual-tiered oversight mechanism promotes accountability and ensures that funds provided by the project proponent are used judiciously to benefit the impacted communities.

81. It is further stated that the establishment of the District Mineral Foundation (DMF) under Section 9B of the Mines and Minerals (Development and Regulation) Act, 1957, represents a statutory mechanism for welfare funding for the benefit of the people in affected area. Further, contributions from mining entities are utilized for the welfare and rehabilitation of affected communities and the State Government, through its supervisory role, ensures these funds are appropriately directed and used, in line with the DMF's objectives, to alleviate the socio-economic and environmental impacts of mining activities on local populations. It is emphasized that under the 'Polluter Pays' principle, as held by the Hon'ble Supreme Court in catena of judgments and mandated by Section 20 of the NGT Act, 2010, this Tribunal is at discretion to enforce the same. Accordingly, M/s Ultra

Tech Cement Ltd., i.e., Project Proponent, is responsible for compensating the villagers of Jodhpura.

82. However, the Respondent being governed by the Joint Committee Report, which has found nothing against the Project Proponent. The Hon'ble Supreme Court and this Tribunal have consistently held that polluting industries bear absolute liability for environmental harm, including damage to the affected villagers, soil, and groundwater, and must undertake necessary remedial measures. However, the Respondent, as the Nodal Authority, shall ensure that all actions are carried out fairly, transparently, and in the interest of justice.
83. Therefore, the submissions of the learned Counsel are that the Project Proponent is responsible for compensating the villagers of Jodhpura also in case there are cracks and air pollution and water pollution.
84. Question is who is responsible for the cracks and what remedial measures are required. Whether the reports of the institutes in question which have not been able to clearly spell out reasons for the damage to the houses in the vicinity of blasting sites can be taken as conclusive or reasonable inference is to be drawn that in absence of any other possible reason, the blasting is the reason for the damage and on that basis preventive and remedial measures can be directed. Further question is whether the statutory regulators have incorporated safeguards against unscientific blasting. If not, whether there is need for review at their level to prevent such damage. Our answer is that the blasting is the clear reason for damage to the houses, notwithstanding absence of scientific evidence. The victims need to be compensated and safeguards need to be adopted by the Project proponent. Statutory regulators need to review the regulatory regime. Reasons follow.

85. We may first note the undisputed legal position. The environmental law to be applied by this Tribunal under sections 20 read with section 15 of the NGT Act is the 'sustainable development', 'Precautionary Principle' and 'Polluter Pays' Principle. 'Public Trust' doctrine requires the regulatory bodies to adopt safeguards against hazardous commercial activities affecting the safety of life and properties of the citizens. These principles are known and have been elucidated in judgements of the Hon'ble Supreme Court inter alia in *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647, *A.P. Pollution Control Board case*, *A.P. Pollution Control Board v. M.V. Nayudu*, (1999) 2 SCC 718 and *Arjun Gopal v. Union of India*, (2019) 13 SCC 523. It will suffice to quote the discussion on the subject from the last judgement which is as follows:-

“37. ... In environmental law, “precautionary principle” is one of the well-recognised principles which is followed to save the environment. It is rightly argued by the petitioners that this principle does not need exact studies/material. The very word “precautionary” indicates that such a measure is taken by way of precaution which can be resorted to even in the absence of definite studies. In Vellore Citizens' Welfare Forum [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647] , this Court explained the principle in the following manner: (SCC pp. 658 & 660, paras 11 & 14-16)

“11. Some of the salient principles of “Sustainable Development”, as culled out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays Principle, Obligation to Assist and Cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that “the precautionary principle” and “the polluter pays principle” are essential features of “Sustainable Development”. The “precautionary principle” — in the context of the municipal

law — means: (i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation. (ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. (iii) The “onus of proof” is on the actor or the developer/industrialist to show that his action is environmentally benign.

**** 14. In view of the abovementioned constitutional and statutory provisions we have no hesitation in holding that the precautionary principle and the polluter pays principle are part of the environmental law of the country. 15. Even otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost an accepted proposition of law that the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law. To support we may refer to H.R. Khanna, J.s' opinion in ADM, Jabalpur v. Shivakant Shukla [ADM, Jabalpur v. Shivakant Shukla, (1976) 2 SCC 521], Jolly George Varghese case [Jolly George Varghese v. Bank of Cochin, (1980) 2 SCC 360] and Gramophone Co. case [Gramophone Co. of India Ltd. v. Birendra Bahadur Pandey, (1984) 2 SCC 534: 1984 SCC (Cri) 313] . 16. The constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the inalienable common law right of clean environment. ...”*

38. The precautionary principle accepted in the aforesaid judgment was further elaborated in A.P. Pollution Control Board case [A.P. Pollution Control Board v. M.V. Nayudu, (1999) 2 SCC 718] as under: (SCC pp. 732-34, paras 31-35)

“31. The “uncertainty” of scientific proof and its changing frontiers from time to time has led to great changes in environmental concepts during the period between the Stockholm Conference of 1972 and the Rio Conference of 1992.

In Vellore Citizens' Welfare Forum v. Union of India [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647] a three Judge Bench of this Court referred to these changes, to the "precautionary principle" and the new concept of "burden of proof" in environmental matters. Kuldip Singh, J. after referring to the principles evolved in various international conferences and to the concept of "sustainable development", stated that the precautionary principle, the polluter pays principle and the special concept of onus of proof have now emerged and govern the law in our country too, as is clear from Articles 47, 48-A and 51-A(g) of our Constitution and that, in fact, in the various environmental statutes, such as the Water Act, 1974 and other statutes, including the Environment (Protection) Act, 1986, these concepts are already implied. The learned Judge declared that these principles have now become part of our law. The relevant observations in Vellore case [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647] in this behalf read as follows: (SCC p. 660, para 14)

'14. In view of the abovementioned constitutional and statutory provisions we have no hesitation in holding that the precautionary principle and the polluter pays principle are part of the environmental law of the country.'

The Court observed that even otherwise, the abovesaid principles are accepted as part of the customary international law and hence there should be no difficulty in accepting them as part of our domestic law. In fact, on the facts of the case before this Court, it was directed that the authority to be appointed under Section 3(3) of the Environment (Protection) Act, 1986 'shall implement the "precautionary principle" and the "polluter pays principle".'

The learned Judges also observed that the new concept which places the burden of proof on the developer or industrialist who is proposing to alter the status quo, has also become part of our environmental law.

32. The Vellore [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647] judgment has referred to these principles briefly but, in our view, it is necessary to explain their meaning in more detail, so that courts and tribunals or

environmental authorities can properly apply the said principles in the matters which come before them.

33. *A basic shift in the approach to environmental protection occurred initially between 1972 and 1982. Earlier, the concept was based on the “assimilative capacity” rule as revealed from Principle 6 of the Stockholm Declaration of the U.N. Conference on Human Environment, 1972. The said principle assumed that science could provide policy-makers with the information and means necessary to avoid encroaching upon the capacity of the environment to assimilate impacts and it presumed that relevant technical expertise would be available when environmental harm was predicted and there would be sufficient time to act in order to avoid such harm. But in the 11th Principle of the U.N. General Assembly Resolution on World Charter for Nature, 1982, the emphasis shifted to the “precautionary principle”, and this was reiterated in the Rio Conference of 1992 in its Principle 15 which reads as follows:*

‘Principle 15.—In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for proposing cost-effective measures to prevent environmental degradation.’

34. *In regard to the cause for the emergence of this principle, Charmian Barton, in the article earlier referred to in “The Status of the Precautionary Principle in Australia” [(1998) 22 Harvard Environmental Law Review 509 at p. 547] says:*

‘There is nothing to prevent decision-makers from assessing the record and concluding that there is inadequate information on which to reach a determination. If it is not possible to make a decision with “some” confidence, then it makes sense to err on the side of caution and prevent activities that may cause serious or irreversible harm. An informed decision can be made at a later stage when additional data is available or resources permit further research. To ensure that greater caution is taken in environmental management, implementation of the principle through judicial and legislative means is necessary.’ In other words, the inadequacies of science is

the real basis that has led to the precautionary principle of 1982. It is based on the theory that it is better to err on the side of caution and prevent environmental harm which may indeed become irreversible.

35. The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by (justified) concern or risk potential. The precautionary principle was recommended by the UNEP Governing Council (1989). The Bomako Convention also lowered the threshold at which scientific evidence might require action by not referring to “serious” or “irreversible” as adjectives qualifying harm. However, summing up the legal status of the precautionary principle, one commentator characterised the principle as still “evolving” for though it is accepted as part of the international customary law, ‘the consequences of its application in any potential situation will be influenced by the circumstances of each case’. (See First Report of Dr. Sreenivasa Rao Pemmaraju — Special Rapporteur, International Law Commission dated 3-4-1998, paras 61 to 72.)”

86. Once it is found that there are cracks in the vicinity of mining using blasting and there is no identified other reason for the blasting, absence of scientific certainty to show that the blasting is the reason, cannot be a ground to assume that no preventive or remedial measures are to be taken for protecting the environment and inhabitants. The burden of proof is on the Project Proponent. There is no data to show that such cracks are happening in other areas where blasting is not taking place. On the principle of *res ipsa loquitor*, blasting has to be taken as a cause for the cracks. The principle of absolute liability laid down in M.C. Mehta

(Supra) [(1987) 1 SCC 395] and latter judgments that liability of the person undertaking hazardous activities for commercial gains for any accident and loss is absolute and is attracted.

87. This Tribunal in Original Application No.288 of 2019 vide order dated 01.07.2021 has observed the cracks and compensation as follows:-

“13. In these circumstances, the project proponent has to take remedial measures in terms of compensating the victims and preventing damage in future. The State PCB has to ensure that suitable conditions are stipulated in the consent granted to Project Proponent (JS) which may also include siting requirements to avoid such damage. The Department of Mining and Safety needs to review safeguards in blasting operations in the areas in question and evolve appropriate monitoring mechanism, including periodic safety audits.

14. Particular care needs to be taken in handling of explosives, to prevent any accident. In this regard we may refer to a recent order of this Tribunal dated 11.6.2021 in OA 59/2021, “In re: News item published in Times Now News dated 23.02.2021 titled “Karnataka: Six killed in quarry blast in Hiremagavalli, Chikkaballapur.” In the said case, the Tribunal appointed a fact-finding Committee which made suggestions for preventing such incidents. Concluding observations of the Committee, as incorporated in the said order, are:

“CHAPTER 10 CONCLUDING REMARKS

The joint committee hereby submits that the main cause of the blast/accident is due to illegal possession and inappropriate handling of the explosive material by unauthorized persons who were working in M/s Shree Bhramaravasini M-sanders LLP (Stone Crusher), under the verbal instructions of the owners of M/s Shridi Sai Aggregates (Stone Quarry) and Shree Bhramaravasini Msanders LLP in Hiremagavalli Village, Karnataka.

The joint committee ascertains the fact that the above accident has occurred due to mere negligence and ignorance of the employees of M/s Shree Bhramaravasini

M-sanders LLP, Hirenagavalli village, Karnataka. This also determines that the owners of both M/s Shridi Sai Aggregates (Stone Quarry) and M/s Shree Bhramaravasini M-sanders LLP (Stone Crusher) have not taken due diligence and responsibility in handling the explosives and merely misguided the employees/staff of the Shree Bhramaravasini M-sanders LLP crusher by taking risk of their lives.

It was also observed that the owner of the quarry has noncomplied with the provisions of the Mines Act, 1952 and The Explosives Act, 1884 which has been mentioned above under section 5.3 of the report, for due cognizance of concerned departments under Government of Karnataka and taking appropriate actions against M/s Shirdi Sai Aggregates, Hirenagavalli, Karnataka.

It is submitted that, the blast site at Sy.No.168 of Varlakonda Village having latitude 13°37'08" N and longitude 77°45'50" E is outside the leasehold area of the mine/quarry thus blast site does not come under the purview of the Mines Act, 1952. However, the management of the mine/quarry belonging to M/s Shridi Sai Aggregates has violated the provisions of the Mines Act, 1952 and allied legislation framed thereunder, although they were found operating the mine/quarry in a valid lease.

Considering the report, the Tribunal awarded compensation to the victims and directed that a mechanism may be evolved to provide information to all concerned about the mine operators procuring explosives, the area where they will use store and handle and safety aspects which are to be followed. Substance of relevant part of this order and other regulatory measures be duly published in vernacular for information of the inhabitants and for better compliance. It was further directed that there was need to review the monitoring mechanism to avoid such incidents in future. The direction is reproduced below:-

“we direct the Chief Secretary, Karnataka to monitor remedial action in terms of the above order in coordination with other concerned Authorities, including the District Magistrate, Chikkaballapur and Director of Mines. The

Chief Secretary may oversee taking of safety measures in the light of the report to prevent such occurrences not only at the place of occurrence but also any other location of the State where there is possibility of such occurrences.”

15. Principle for awarding compensation under Section 15 of the NGT Act, are well settled. Reference is made to MC Mehta (1987) 1 SCC 395, Sterlite case, (2003) 8 SCC 575, MC Mehta (Kant Enclave), (2018) 18 SCC 397 and Uphaar case, (2011) 14 SCC 481. Compensation can be palliative/restitutionary or punitive/exemplary. Minimum compensation on restitution principle is a must but deterrent compensation can be awarded with reference to the turnover of a commercial undertaking, depending upon relevant factors. For restitution, cost of damage caused has to be worked out.”

88. The perusal of the evidence on record and the arguments makes it clear that there are inevitable impacts on human habitation because of setting up of stone crushers within the restricted area and the Government primary school has already suffered damage in the form of cracks because of blasting activities undertaken and there is eminent danger to the students in the school. There is a large-scale impact on the households of the area in most of the houses and even the houses which are recently constructed have developed cracks. They were also suffering from noise and air pollution which has already caused large scale health impact and mental disturbances. A list of health check-up has been filed as Annexure-A20 in Original Application No.144/2024(CZ) in which the Medical Officer has treated 298 persons most of them are suffering skin rashes, asthma, nose irritation, joint pain, deafness, allergy, breathlessness, eye irritation allergy etc. and the list is of 298 persons. Accordingly, some reasonable compensation for causing injury is required to be paid these poor villagers which, in our view, is should not be less than 20,000/- (Twenty Thousand only), in addition to immediate

medical facilities to be made available by the Collector at the cost of the Project Proponent with the medicines and regular camp in the area.

89. It is further reported that more than 8-10 borewells were dried up due to extra extraction of ground water and water level went below upto 700 feet and only 10% of the ground water source is presently in operation.
90. Only objection which has been raised by the learned Counsel for the Respondent/Project Proponent is that this application has been filed after 16 years of the award and is not maintainable.
91. The contentions of the learned Counsel for the Applicant are that the Applicant has not challenged the award nor acquisition proceedings, thus, the application is maintainable. Secondly, the cracks in the house and the sufferings in human health are latest developments at the time of filing the application and the adverse effects of the air and water pollution caused by the mining and blasting. Thus, the cause arose just before filing the application and it is not barred by any limitation.
92. Applying a rough and ready estimate, we assess such compensation to be of minimum 50,000/- (Rupees Fifty Thousand only) subject to any other cause to be assessed by the Collector on the basis of an expert report to be awarded to the affected persons mentioned in the report submitted by the Deputy Collector to be paid by the Project Proponent/M/s Ultratech Cement Ltd.
93. Accordingly, we direct the Project Proponent to deposit the amount to the office of the Collector, Kotputli, for disbursal of the compensation to the victims and for restoration of the environment. There must be an undertaking from the Project Proponent to take precautions in future and blasting must be scientific which may not cause any damage to the property of the inhabitants which will be treated as a condition for

mining and using blasting, apart from laid down safeguards. In default of such deposit or non-observance of safety norms, the District Magistrate/Collector concerned will be at liberty to take coercive measures for realization and disbursal of the above amount.

94. We further direct that the regulatory authority needs to review its mechanism and must ensure laying down and monitoring of the safety precautions. The existing regulatory mechanism may be reviewed, to be considered by the Department of Environment in coordination with other concerned Departments.

95. We further direct as follows:-

- (i)** The conditions as contained in the Environmental Clearance, guidelines issued by the State PCB and the Central Pollution Control Board must be strictly complied with. The State PCB is directed to regularly monitor the compliance of the conditions and take remedial measures in case it is found to be violated.
- (ii)** The State PCB is further directed to regularly monitor that the pollution control equipments like – bag filters vacuum suction hoods, dry fogging systems etc. are properly available in the limestone mine or crusher areas which are essential to avoid generation of fugitive emission and there must be water sprinkling. Measures be undertaken regularly to suppress the dust arising from the limestone mines adversely affecting the air pollution level.
- (iii)** The guidelines issued by the Director General of Mines and Safety must be strictly observed with and Consent conditions must be complied with and in case of violation, action must be taken in accordance with the rules.

- (iv)** Considering the fact that ambiguity prevails as regards distance of schools and houses of locals from mining site, therefore, the Department of Mines and Geology, State of Rajasthan, and the Collector concerned are directed to demarcate the line on ground from 500 meters from the village establishments including school impartially and ensure that no blasting shall be permitted within the 500 meters radial distance from temples, offices, dwellings, schools structures belonging or not belonging to owner, which may cause damage to the property or cause injury to the persons or anyone. The mining shall work only in one shift during day shift hours with necessary safeguards. There must be specific indication of Danger Zone and proper distinct warning by a siren be given for the purpose within the Danger Zone.
- (v)** The Respondent/Project Proponent shall complete the development of green belt at the periphery of the mining as per the norms within six months as the efforts made by the Project Proponent are insufficient. The Project Proponent must ensure that saplings of more than two meters height of long-lasting multipurpose indigenous tree species to be used for carrying out plantation. Effective fencing and support watering to be provided for proper maintenance. This green belt will also restrict the spread of particulate matter apart from other ecological benefits in future.
- (vi)** The fine dust accumulated in the crushing/mine area should be periodically cleaned and dumps should be covered with tarpaulin to arrest erosion by wind and the approach road

should be properly developed and should be sprayed with water. The Project Proponent shall also ensure development of grazing land available around the mining areas or shall make necessary alternative for livestock feed.

(vii) The illumination and sound at night at project sites disturb the villagers in respect of both human and animal population. Consequently, sleeping disorder and stress may affect the health in the villagers located close to mining operations. Thus, minimal noise at the night must be maintained and the Project Proponent must ensure that the biological clock of the villagers is not disturbed. Floodlights, masks, and keeping the noise level well within the prescribed limit for day and night hours must be maintained according to the parameters laid down in the above guidelines.

(viii) The persons whose houses have been damaged or cracks have been found as submitted in the list quoted above, verified by the State are entitled for the payment of compensation/environmental damage @ Rs.50,000/- (Rupees Fifty Thousand only) each, only to those whose houses have been damaged, and to be used from CSR fund. In case the aggrieved/victims have higher claims, they are at liberty to take their remedies according to rules.

(ix) The Project Proponent/Ultratech Cement Ltd., is directed to pay this amount to the office of the Collector, Kotputli, within a period of three months and the Collector has to disburse the said amount within a reasonable time after identifying the persons from the list submitted by the Sub-Divisional Officer

concerned and in case the amount is not deposited by the Project Proponent, the District Magistrate concerned shall proceed in accordance with rules.

- (x)** The Chief Secretary, State of Rajasthan, is also directed to constitute a committee of competent officials to undertake the study and measures to rehabilitate the victims of pollution away from the proximity of limestone mining with crushers.
- (xi)** The Respondents are directed to make provisions for regular supply of drinkable water to the villagers, where water is not available, residing in the vicinity of the mining and being affected due to the mining project from the CSR fund. The Respondent/Project Proponent is further directed to undertake the water recharge and water conservation works in and around the mining site immediately and must ensure sufficient enough to recoupe the loss of ground water taken place after project has started to ensure the availability of water for future generation.
- (xii)** The Central Ground Water Authority (CGWA) shall provide technical guidance in this regard as well as monitor the ground water table recharge in the area and in no case water abstraction from the ground should exceed the water recharge in the soil.
- (xiii)** Every person from the list of Annexure-A20 of Original Application No.144/2024(CZ) are entitled for payment of total 20,000/- (Rupees Twenty Thousand only) as the environmental damage and health impact to be paid from the CSR fund. The Project Proponent/Ultratech Cement Ltd. is directed to deposit the said amount in accordance with the list of Annexure-A20

(total number shown as 298) to the Collector concerned, who will, after verifying the matter, pay and disburse the amount to the affected persons. The Collector is further directed to make necessary provisions for medical facilities to the villagers being affected by the mining with the provisions of medicines free of cost and regular check-up at the interval of two weeks and further provisions for regular and permanent facility of treatment to the affected persons at the nearby place. The amount of DMF and the CSR funds may be utilized for the purpose.

96. A copy of the order be forwarded to Secretary Environment, State of Rajasthan, Member Secretary, Rajasthan State PCB and the Collector concerned, for information and necessary actions.
97. With the above directions and observations, the **Original Application No.143/2024(CZ)** and **Original Application No.144/2024(CZ)** along with pending **I.As.**, stand **disposed of** accordingly.

Sheo Kumar Singh, JM

Sudhir Kumar Chaturvedi, EM

03rd November, 2025,
Original Application No.143/2024(CZ)
(I.A. No.37/2025 & I.A. No.78/2025) With
Original Application No.144/2024(CZ)
(I.A. No.79/2025)
AK