

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

**Original Application No. 170 of 2014**

**IN THE MATTER OF:**

**Indian Council for Enviro-Legal Action (ICELA) Vs. MoEF & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER  
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER  
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Present: Applicant : Mr. M.C. Mehta and Mr. Rahul Shukla, Advs.  
Respondent No. 1: Ms. PanchajanyaBatra Singh , Advocate  
Respondent No.3&4: Mr. Ardhendumauli Kr. Prasad, Adv.  
Respondent No.5: Mr. Rajat Jariwal and Ms. Anisha Somal, Advs.  
Respondent No.6: Mr. Joy Dip Bhattacharya, Mr. Prashant  
Chandra, Mr. P.S. Singh, Advs.  
Respondent No.7&9: Mr. Vatsala Rai and Ms. Anindita Roy  
Choudhary, Advs.**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 10</b> <b>March 17, 2015</b>	<p>We have heard the Learned Counsel appearing for the parties. We have perused the Report. Some of the Respondent's Notices who have not filed objections to the Report may do so within two weeks from today.</p> <p>It is undisputed before us that even the industries which have provided incinerators to dispose of the stored gas- HFC-23 were not possessed of such means for years together. Even after coming into force of the Air (Prevention &amp; Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986, these industries were emitting this gas into atmosphere. It cannot be disputed that this gas is injurious to environment and consequently to human health. Emission of this gas would certainly contribute to the global warming which is likely to have adverse environmental impact. However, we would like to wait for the submissions in this regard before we finally decide this issue.</p>

In the meanwhile, all the Respondent's Notices shall show cause as to why they be not directed to pay compensation for polluting the environment and causing global warming endangering human health. We have no hesitation in prime facie coming to the conclusion that all these industries have breached corporate social responsibility, the laws in force and were emitting these gases into atmosphere causing global warming and health hazards. Obviously, they have made profits for all those years. For instance the Respondent No. 7 has an annual turnover more than 4,000 crore on multi-item. This is an indicator of their activity what they have done in the past is surely their responsibility. Being aware of various repercussions at this stage we would require all these companies of the respondents notices to answer and give the following details:-

1. Why they be not directed to pay compensation in terms of section 15 of NGT Act, 2010?
2. What was their annual turnover prior to installation of incinerator?
3. Total HFC-23 generated per day.
4. Storage capacity for storing of such gases.
5. Period for which the incinerator are operated.
6. Whether such gas is being sold in the market or to any other manufacturer involved in refrigeration machine or air-conditioners.

They shall also give details of production and destruction of HFC-23 with effect from January, 2013.

MoEF shall also bring to the notice of Tribunal if they are providing any incentive for disposal of this gas and what

are the current parameters in force to take a clear stand vis-à-vis HFC-23 in view of the Ozone Depleting Substances (Regulation) Rules 2000. It will be stated with reference to the list of Ozone Depleting Substances stated in schedule I to these Rules, whether manufacturing of Item No. 22 would result in generation of by-product HFC-23 and its environmental impact. We make it clear that this affidavit shall not be filed by a person below the rank of an Additional Secretary to MoEF who shall take due scientific consultation before filing this affidavit. MoEF shall also produce the list of identical industries before the Tribunal along with the places where they are existing.

The needful should be done positively within three weeks from today.

List this matter on 07<sup>th</sup> April, 2015.

.....,CP  
(Swatanter Kumar)

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

.....,EM  
(Dr. D.K. Agrawal)

.....,EM  
(Prof. A.R. Yousuf)

.....,EM  
(Ranjan Chatterjee)