

## Bonani Kakkar vs Oil India Limited on 30 November, 2023

Item No.02

Court No.1

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)

Miscellaneous Application No.31/2023/EZ,  
Miscellaneous Application No.33/2023/EZ,  
In  
Original Application No.43/2020/EZ

Bonani Kakkar

Applicant(s)

Versus

Oil India Limited & Ors.

Respondent(s)

Date of hearing: 30.11.2023

CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER  
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER

For Applicant(s) : Mr. Vikram Rajkhowa, Advocate a/w  
Mr. Devansh Mohta, Adv. in M.A. No.31/2023/EZ and  
Ms. Shahrukh Alam, Adv. in M.A. No.33/2023/EZ (in Virtual Mode)

For Respondent(s) : Mr. Sridhar Potaraju, Advocate for OIL (in Virtual Mode),  
Mr. Ashok Prasad, Advocate for R-3,  
Ms. Amrita Pandey, Advocate for R-4 (in Virtual Mode),  
Ms. Malabika Roy Dey, Advocate for State of Assam

### ORDER

1. Heard Mr. Vikram Rajkhowa, learned Counsel assisted by Mr. Devansh Mohta and Ms. Shahrukh Alam, learned Counsel appearing (in Virtual Mode) on behalf of the Applicant.

2. The Miscellaneous Application No.31/2023/EZ has been filed by the Applicant seeking the following reliefs: -

(i) "direct the respondents to expeditiously disburse the balance interim compensation amount of Rs.10.00 lakhs per family to the 161 families in Category-I, i.e. Rs.25.00 lakhs (-) less advance Rs.15.00 lakhs = Rs.10.00 lakhs per family, and/or

(ii) direct the respondents to expeditiously disburse the balance interim compensation amount of Rs.10.00 lakhs per family to the 439 families in Category-II, i.e., Rs.20.00 lakhs (-) less advance Rs.10.00 lakhs = Rs.10.00 lakhs per family, and/or

(iii) grant such other consequential reliefs pertaining to "interim compensation" that this Hon'ble Court deems fit and proper, including interest on the 'interim compensation' amount being due, and/or

(iv) pass any other such order(s)/direction(s) as this Hon'ble Tribunal seem fit and proper under the facts and circumstances of the present case."

and

3. The Original Application No. 43/2020/EZ Bonani Kakkar Vs. Oil India Limited was taken up by the National Green Tribunal, New Delhi Bench in respect of an incident relating to destruction and damage caused by the oil blowout and explosion that took place in BGN-5 Oil Well at Baghjan stated to be due to the acts and omissions of the Oil India Limited.

4. The National Green Tribunal vide its order dated 24.06.2020 constituted a Committee of Experts headed by Hon'ble Mr. B. P. Katakey, former Judge of Hon'ble Guwahati High Court. The preliminary Report dated 24.07.2020 was submitted by the Experts Committee before the National Green Tribunal, New Delhi Bench.

5. It is stated that the Committee was of the unanimous view that blowout and the subsequent explosion has led to extensive damage to both the public owned resources as also irreparable harm and damage to private owned property to the survivors in the affected villages.

6. The National Green Tribunal, New Delhi Bench vide its order dated 06.08.2020 observed that Experts Committee assessed the interim compensation to the affected villagers and passed recommendation which noted as under: -

"Preliminary Interim Measures IV. Interim Compensation to the affected families

1. The Committee, proposes the formulation of three categories of affected families to assess the question of interim compensation namely;

(i) Those whose houses have been completely gutted by the fire thereby causing grave injury to life and health, loss of livelihood, cultivable land, livestock, damage to standing crops and horticulture, fisheries etc.

(ii) Those whose houses have been severely damaged thereby causing grave injury to life and health, loss of livelihood, cultivable land, livestock, damage to standing crops and horticulture, fisheries etc.

(iii) Those whose houses have been moderately/partially damaged or whose standing crops and horticulture have been partially damaged thereby causing injury to life and health, loss of livelihood, cultivable land, livestock, damaged to fisheries etc.

(iv) The scale of interim compensation is as follows:

Category (i) Rs.25 lacs Category (ii) Rs.10 lacs Category (iii) Rs.2.5 lacs

2. An initial amount of Rs.25 lacs will be released immediately to all the affected under category (i) whose information is already available with the Office of the District Administration. For the affected families under category, (ii) the amount of 10 lacs will be released immediately within an outer limit of 10 lacs will be released immediately within an outer limit of 15 days, based on the information already available with the Office of the District Administration. The compensation amount, if any already paid, shall be deducted from the aforesaid amount of interim compensation.

3. The Office of the District Administration will compile a list of all those in Category (iii), who have been moderately / partially impacted, in consultation with the revenue officers, PWD, concerned circle officer, the Gaonburahs and community representatives of the affected villages. The disbursement of the amount will be completed expeditiously within an outer limit of 45 days from the passing of the order by the Hon'ble NGT for interim compensation.

4. The affected families, particularly under category (i) and (ii), whose names have been left out of the list would be entitled to the said amount after due verification within 7 days from the passing of the order by the Hon'ble NGT for interim compensation and the same will be disbursed within 15 days from the date of completion of the verification.

5. The interim compensation will be paid by OIL and from the funds which have already been made available to the Office of the District Administration. The balance amount, if any, will be made available immediately by OIL and as and when asked by the Office of the District Administration.

6. One-time compensation amounting to Rs.30,000/- that has been agreed to be paid by OIL to the affected families, who had moved to the relief camps due to Well Baghjan-5 blowout on 27.05.2020, as an immediate reliefs, will be disbursed immediately as per the list prepared by the Circle Officer, Doomdoo and available with the Office of the District Administration and not later than 7 days from passing of the order by the Hon'ble NGT for interim compensation. The affected families whose names have been left out of the list would be entitled to the said amount after due verification and the same will be disbursed within 15 days from the passing of the order by the Hon'ble NGT for interim compensation.

7. One-time compensation of Rs.25,000/- will be disbursed to each of the affected families and individuals who had shifted to the relief camps in the wake of the explosion in 'Well Baghjan-5 on 09.06.2020 as an immediate relief as per the list

prepared by the Circle Officer, Doomdooa and available with the Office of the District Administration and not later than 7 days from the passing of the order by the Hon'ble NGT for interim compensation. The affected families whose names have been left out of the list would be entitled to the said amount after due verification and the same will be disbursed within 15 days from the passing of the order by the Hon'ble NGT for interim compensation.

8. The interim compensation as well as the one time compensation, as stated above, will be credited directly to the bank accounts of the affected families and individuals by the Office of the District Administration. The said interim compensation is non-recoverable and will be adjusted against the final compensation due to the affected families and individuals.

9. An immediate health insurance policy including COVID 19 will be made available by OIL to all affected individuals and families by the Well Baghjan-5 blowout and explosion and who are presently taking shelter in the relief camps within 7 days from the passing of the order by the Hon'ble NGT for interim compensation.

17. According to the OIL, compensation has already been paid to persons covered by category (i) @ Rs.20 lakhs per family. The other two categories have not been identified. Additional compensation for category (i) is also not justified."

7. It is stated that Oil India Limited objected to the recommendations made by the Experts Committee but the same was rejected by the Tribunal vide its order dated 06.08.2020 and the recommendation of the interim compensation made in the preliminary Report were accepted. The relevant part of the order reads as under: -

"18..... The recommendation of the Committee on the subject of compensation for three categories of victims are accepted with the clarification that the compensation already paid will be taken into the account and excluded from the interim compensation recommended by the Committee. Compensation to victims of categories (ii) and (iii) will be subject to identification by the District Administration which may be completed preferably within one month. We request the Assam State Legal Services Authority to oversee the process....."

8. It is also stated that the Respondent No.6, Deputy Commissioner, Tinsukia, Assam vide its order dated 25.08.2020 wrote to the Chairman of the Experts Committee submitting the list of affected families for payment of compensation. The following particulars were highlighted in the letter: -

"2.0 They had submitted a memorandum on date and had inter- alia/demanded the following: -

(I) The families of Bagahjan Gain who have been affected fully/severely should be included in the Category (i) (Rs.25 lacs for each family) in terms of the Hon'ble NGT

order in addition to those families whose houses have been gutted.

(II) The remaining affected families from Baghjangaon should be included in Category (ii). They demanded that Category (ii) affected families from Baghjangaon should each be paid advance amount of Rs.20.00 lakhs.

6.0 In terms of the order of the Hon'ble NGT, although the list of severely damaged house/severely affected families being submitted herewith numbering 57 families as mentioned above at Para 4.0 would fall in Category

(ii), yet as per the demand of the affected families of Baghjangaon, the severely affected families may be included in Category (i), the reason being their houses have been severely damaged to the extent that these have become inhabitable and also standing crops/horticulture have been severely affected. 7.0 In this regard, the Experts Committee headed by your honour may like to recommend for widening the ambit/definition of Category (i) to include, in addition to houses which have been completely gutted by the fire, also the houses which have been severely damaged including the agriculture/horticulture and other property. 8.0 In pursuance of the demand of the "Baghjan Gaon Milanjyoti Yuba Sangha" and the villagers, the remaining affected families from Baghjangaon numbering 561 families who are at present staying in the relief camp at Baghjan Dighaltarang ME School and High School may be included in Category (ii) as determined by the Hon'ble NGT. These affected families whose houses have been partially damaged including standing crops and horticulture, otherwise falling in Category (iii) as per categorization by the Hon'ble NGT, may be included in Category (ii), the reason being these families have been affected the most, in a way being in the closest vicinity to the blowout site, from 0 to 1.5 Km (approx..) and they have been subjected to continuous sound and air pollution resulting from the blowout and fire. Further, they have apparently faced the maximum impact on their health, including mental stress and disorientation.

9.0 In view of the above factors, the Experts Committee headed by your honour may like to recommend to the Hon'ble NGT to consider the remaining affected families from Baghjangaon, numbering 561 families, in Category

(ii) on special consideration as explained in detail above in Para 8.0.

10.0 In such a case, the distance factor of affected families within the range of 0 to 1.5 km from the blowout site could be one of the criteria to determine Category (ii), irrespective of whether houses have been severely damaged or not. This additional criteria for Category (ii) as "Severely affected families in a distance/range of 0 to 1.5 Km from the blowout site" could perhaps be included as an option to the criteria for category (ii) already fixed by the Hon'ble NGT. The severity may in such case be calculated not only on the houses damaged, but on the overall severity of the impact of the blowout on the affected villagers because of the proximity to the blowout site (0 to 1.5 Km).

11.0 Further, the amount of Category (ii) may perhaps be enhanced as demanded by the "Baghjan Gaon Milanjyoti Yuba Sangha" and the Baghjangaon villagers, if deemed appropriate."

9. Minutes of the Meeting held with the Members of the Baghjan Gaon Milanjyoti Yuba Sangha (BGMYS) and Officials of Oil India Ltd. and Deputy Commissioner, Tinsukia dated 18.09.2020 are extracted hereinbelow: -

"Discussing the matter of compensation, the Deputy Commissioner, Tinsukia informed the house that the previous Deputy Commissioner, Tinsukia had already submitted a proposal to Expert Committee through the Hon'ble Chairman of the Committee of Experts for submission of the required proposal to the Hon'ble NGT. In the said proposal two categories namely Category-I (57 Nos. of families @ Rs.25 lakh per family) and Category-II (543 Nos. of families @ Rs.20 lakhs per family) were proposed. The Experts Committee submitted an interim report to the Hon'ble NGT on 01.09.2020 making certain recommendations.

In response, President and other members of BGMYS collectively informed the house that they were not satisfied with the total numbers of families submitted in Category-I and requested for a further survey and include the left out affected families in Category-I. CO, Doomdooma Revenue Circle was requested to submit the list of affected families afresh within 23.09.2020 and informing the BGMYS. The OIL officials, RCE/ED, HR&A/CGM, ADMIN, Oil India Ltd. present in the meeting were accordingly apprised regarding the possible increase of families in Category-I as submitted by BGMYS as well as the increase of one time compensation in Category-I & Category-II. The house agreed for submission of the required report by the Deputy Commissioner, Tinsukia to the Experts Committee through the Hon'ble Chairman for onward submission to the Hon'ble NGT. The members of BGMYS agreed on the final compensation and the final list on all counts."

10. The Deputy Commissioner, Tinsukia also wrote to the Chairman of the Experts Committee as under: -

"(2) The earlier submitted list included 57 families in Category-I that is @ Rs.25.00 Lakhs per family and @ Rs.20.00 Lakhs per family for Category-II for 543 families. In all a total of 612 families are involved including 12 families who had already been paid Rs.25 Lakhs per family.

(3) As per the discussion in the meeting, the re-survey was started immediately from 19th September 2020 comprising of a team headed by C.O Doomdooma, PWD(Bld), Agriculture, DIIC, Forest, Veterinary, Handloom & Textile & Fishery departments which was completed on the 23rd of September 2020. Baghjan Gaon Milanjyoti Yuba Sangha members also assisted the survey team in the field and the list was accordingly submitted on 23 September 2020 evening.

(4) During the re-survey the list of additional families were prepared and added in the Category-I. An additional 104 families were inducted in Category-I to earlier containing 57 families which is being attached herewith as Annexure-E. Now the

number of families stands at 161. The remaining 439 families have been categorized as Category-II. (5) It may be mentioned that 12 families have already received an amount of Rs.25.00 Lakhs each as their houses totally destroyed in the fire.

In kind consideration of the above, the Experts Committee headed by your kind office may like to recommend to the Hon'ble NGT to consider the affected families of Baghjan Gaon in two categories - Category-I (12 + 57 + 104 = 173 Nos. of families) and Category-II (439 Nos. of families) as the final compensation of Baghjan affected families."

11. A further Progress Report dated 31.10.2020 was submitted by the Committee of Experts with regard to the compensation to the affected families which reads as under: -

"(viii) The Deputy Commissioner, Tinsukia being one of the Members of the Committee appointed by the Hon'ble NGT and also the head of the Revenue in the District has re-surveyed the affected families and recommends that an additional 1044 families be inducted into Category (i) to the earlier list containing 57 families. He has further recommended that for the disbursement of the final compensation, the affected families of Baghjan Gaon be revised into two categories and the number of affected families of Baghjan Gaon be revised into two categories and the number of affected families would be as follows:

Category (i): (12 + 557 + 104 = 173 Nos. of families) Category (ii): (439 Nos. of families) The Committee is inclined to accept his recommendation for payment of Rs.25 lakhs to the identified 173 nos. of families and Rs.20 Lakhs to identified 439 nos. of families, subject to the process being over seen by the Assam State Legal Services Authority. The amount already paid to any aforesaid families shall be deducted from the said amount. Hence, the Hon'ble NGT may consider passing necessary order in that regard for payment of interim compensation as suggested."

12. In a further meeting held on 09.11.2020, the following was noted in the Minutes of Meeting: -

".....members of Baghjan Gaon Milan Jyoti Yuba Sangha raised the issue of inequality in fixing the compensation amount. They expressed that though OIL had paid Rs.25 lakh as compensation to 12 nos. of families whose house were completely burnt and also other compensation amounts as per honourable Green Tribunal's interim order, they demanded payment of the same amount as per Category- I to the families whose houses were not burnt but were damaged by the fire or condensate. They also demanded the amount of Rs.20.00 lakh per families of Category-II.

The representatives of Baghjan Gaon Milan Jyoti Yuba Sangha demanded to get final decision/reply on advance amount from OIL soon. They said that as per discussion earlier at site near Baghjan Well No.5 additional affected people those who shall now fall under Category I should be given Rs.15 lakh as advance amount and those who will fall in Category II should get Rs.10 lakh as advance.

OIL requested the members present in the meeting to have lenient view on the advance amount and suggested to offer Rs.10 lakhs per family who falls under Category I and Rs.7.5 lakh per family to those who falls under Category II. The members of Baghjan Gaon Milan Jyoti Yuba Sangha refused to agree to it and stuck to their demand of Rs.25 lakh and Rs.20 lakh to Category I & II and also payment in advance of Rs.15 lakh and Rs.10 lakh as advance to Category I & II and also payment in advance of Rs.15 lakh and Rs.10 lakh as advance to Category I & II respectively, which would be adjusted in due course after final order of NGT.

After prolonged discussion, it was decided to deposit the advance amount in the office of DC Tinsukia district by 30.11.2020."

13. It is stated that vide letter dated 02.12.2020 addressed to the Deputy Commissioner, Tinsukia district, the Oil India Limited acknowledged its liability to pay interim compensation to the affected families of Baghjan disaster but with reduced compensation amount. It is stated that the National Green Tribunal vide its order dated 15.02.2021, disposed of the Original Application No.43/2020/EZ with the following observations: -

"23. While the Committee has suggested payments towards compensation to be treated as interim, the OIL does not accept any further liability. In view of substantial number of victims having been compensated up to a reasonable level, the issue will have to be taken as concluded as far as the present proceedings are concerned. This tribunal cannot enter into further adjudication in absence of the victims and authentic data.

24..... while requiring the OIL to pay whatever compensation is undisputed forthwith, we propose to leave the rest of the matter to be decided in appropriate remedies of the victims. However, we propose to lay down mechanism to deal with some of the issues emerging from the report of the Committee. It is made clear that this order will not debar any victim of the occurrence who is aggrieved by denial of compensation or inadequacy of compensation to take remedies for such claim before any appropriate forum in accordance with law."

14. The order of the National Green Tribunal was put to challenge in the Hon'ble Supreme Court in Civil Appeal No.2201 of 2021 and it is stated that the Applicant Monoj Hazarika intervened through I.A. No.135265/2021 representing the concerns of the residents of Baghjan village with regard to payment of compensation. Thereafter, it is stated that the Hon'ble Supreme Court on 01.09.2022, on the question of compensation, made the following observations:-

"1. We clarify that the pendency of these proceedings shall not come in the way of disbursement of compensation to the affected villager in accordance with law."

15. It is stated that the Civil Appeal No.2201/2021 was thereafter disposed of by the Hon'ble Supreme Court by its order dated 23.01.2023 and the case was remanded to the National Green



Tribunal with the following direction: -

"11. The other two committees, which have been constituted by the NGT, shall proceed to complete the task which has been assigned to them. In terms of the earlier directions, it is clarified that the pendency of the proceedings before the NGT shall not affect the disbursement of interim compensation to the affected villagers. The NGT shall, it is clarified, be at liberty to pass further directions in regard to assessing the compensation payable and for its disbursement to all the affected persons."

16. Thereafter, it is stated that a Contempt Petition was filed by the Applicant in the Hon'ble Supreme Court being Contempt Petition (C) Diary No.19943/2023 in Civil Appeal No.2201/2021 in which the Hon'ble Supreme Court passed the following order on 14.07.2023 which reads as under: -

"2. The grievance of the petitioners arises from an order passed by the National Green Tribunal on 24 July 2020 for the payment of interim compensation.

3. On 23 January 2023, this Court directed that the disbursement of interim compensation should be effected expeditiously, within a period of two months. Thereafter, an order has been passed by the NGT on 10 March 2023 against which an independent appeal has been filed before this Court. However, the petitioners claim for the disbursement of the interim compensation would, in the submission, still survive in terms of the order passed by this Court on 23 January 2023.

4. Since the grievance is that the interim compensation has still not been disbursed, we grant liberty to the petitioners to move a miscellaneous application before the NGT for espousing their relief. We request the NGT to take up the miscellaneous application expeditiously so as to ensure that due compliance of the order for the disbursement of interim compensation is effected, if not already done."

17. It is stated that thereafter, M.A. No.19/2021/EZ was filed by the Applicant in Original Application No.43/2020/EZ before the National Green Tribunal, New Delhi. It is stated that the interim compensation recommended by the Deputy Commissioner, Tinsukia and accepted by the Committee of Experts was only partially paid to the affected villagers of Baghjan village i.e.: -

i) the recommended/agreed amount in Category-I was Rs.25.00 lakh per family but only Rs.15.00 lakh was paid, and

ii) agreed amount in Category-II was Rs.20.00 lakh per family but paid Rs.10.00 lakh only and therefore, the amount of compensation which is now claimed as remaining to be paid has been given in the Box of para 23 of the Miscellaneous Application No.31/2023/EZ which is extracted hereinbelow: -

"Category Type	No. of Families	Amount per Family (in Lakhs)		
		Agreed	Paid	Due

I	173	Rs . 25 . 00	Rs . 15 . 00	Rs . 10 . 00	Cr
II	439	Rs . 20 . 00	Rs . 10 . 00	Rs . 10 . 00	Rs .

18. M.A. No.19/2021/EZ has since been disposed of by the National Green Tribunal, New Delhi Bench vide its order dated 08.08.2023.

19. The prayer in the Miscellaneous Application No.33/2023/EZ reads as under: -

(i) "direct the respondents to immediately declare the category list in regard to Natun Rongagora village according to the Categories-I, II and III, that was accepted by the Committee of Experts headed by Justice B. P. Katakey as well as by the Hon'ble NGT, towards 'interim compensation', and/or

(ii) direct the respondents to expeditiously disburse the 'interim compensation' amount to the affected villagers of Natun Rongagora, and/or

(iii) grant such other consequential reliefs pertaining to 'interim compensation' that this Hon'ble Court deems fit and proper, including interest on the 'interim compensation' amount being due, and/or

(iv) pass any other such order(s)/direction(s) as this Hon'ble Tribunal seem fit and proper under the facts and circumstances of the present case."

20. The case of the Applicant is that about 658 families of Natun Rongagora village are seeking for 'interim compensation' for the damage caused by BGN-5 oil well disaster. It is stated that after the disaster, the Tinsukia District Administration has set up a makeshift shelter at Guijan High School from around 10.06.2020 for the affected villagers and paid the affected villagers in two phases, which read as under: -

"Sl.No.	Particulars	No. of Families	Amount paid per Family	Total Amount (in Crores)
1	Immediate relief	630	Rs.25,000/-	Rs.1.57
2	House rent, food, medical allowances, etc	652	Rs.50,000/-	Rs.3.26

21. It is stated that after computation and determining the 'interim compensation' by the Committee constituted by the National Green Tribunal, New Delhi, the Applicant Nirantra Gohain, present Applicant, on behalf of himself and on behalf of the affected family of Natun Rongagora, filed the M.A. No.17/2023/EZ in Original Application No.43/2020/EZ for disbursement of interim compensation but it is stated that till date the compensation has not been paid to them.

22. In our opinion, matter requires consideration.
23. Issue notice to the Respondents, returnable within four weeks.
24. Mr. Sridhar Potaraju, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.2, Oil India Limited.
25. Mr. Ashok Prasad, learned Counsel who is present in Court, accepts notice on behalf of the Respondent No.3, Ministry of Petroleum and Natural Gas, Government of India.
26. Ms. Amrita Pandey, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.4, Ministry of Environment, Forests and Climate Change (MoEF&CC).
27. Ms. Malabika Roy Dey, learned Counsel who is present in Court, accepts notice on behalf of the Respondent Nos.5 and 6, State Respondents, Government of Assam.
28. Issue notice to the Respondent No.1, Bonani Kakkar, returnable within four weeks.
29. All the Respondents shall file their counter-affidavits within four weeks.
30. Learned Counsel for the Applicant shall serve e-copy/soft copy of the M.A. along with all its annexures on Mr. Sridhar Potaraju, Mr. Ashok Prasad, Ms. Amrita Pandey and Ms. Malabika Roy Dey, learned Counsel for the Respondents within two days.
31. List on 10.01.2024.

..... B. Amit Sthalekar, JM ..... Dr. Arun Kumar Verma,  
EM November 30, 2023, Miscellaneous Application No.31/2023/EZ, Miscellaneous Application  
No.33/2023/EZ, In Original Application No.43/2020/EZ SKB