

Item No. 02

Court No. 1

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

**(BY VIDEO CONFERENCING)**

Original Application No. 862/2022  
(I.A. No. 309/2022)

(With reports dated 21.04.2023 and 28.04.2023)

Pankaj Kumar Mishra

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 10.05.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent(s): Mr. Atif Suhrawardy, Advocate for CPCB

**ORDER**

**The issue**

1. Grievance in this application is against failure of concerned project in Singrauli and Sonbhadra in U.P. and M.P. to control air pollution. Such pollution is taking place during transportation of fly ash by Thermal Power Stations in violation of CPCB Guidelines and also activities of unregulated coal mining and stone crushers. Vide order dated 25.11.2022, the Tribunal sought a factual report from a joint Committee comprising MoEF&CC, CPCB and State PCB.

**Factual report of joint Committee**

2. Accordingly, report dated 21.04.2023 has been filed by the CPCB with regard to violations found in two parts - first part deals with area

falling in Madhya Pradesh and second with that falling in UP. Report dated 28.04.2023 filed by UP State PCB mentions the follow up action against the violators. We may mention further details of the said reports.

### **3. Report dated 21.04.2023 with regard to the area falling in Madhya Pradesh**

#### **Issues considered**

*“• Need for installation of the CCTV camera at the strategic locations to track the movements of trucks carrying coal & ash for checking their proper tarpaulin covering and also to keep a tab on the vehicles responsible for coal and ash on public roads.*

*• Need for regular cleaning of roads/ sweeping of transportation roads where ash & coal dust gets deposited and get entrained on truck movement.*

*• There are few improper turns/speed breakers on the road from Shaktinagar to Auri to Anapra (Uttar Pradesh) that requires proper scientific designing to avoid road accidents.*

*• Need for alternate roads/dedicated roads are to be provided/constructed for public vehicles as coal & fly ash transporting vehicles and public vehicles plying on the same road is resulting in increasing number of accidents.*

*• The road shoulders are not pucca, due to which on vehicle movement the coal dust & fly ash deposited on the sides of the road, get entrains in the ambient and cause heavy fugitive emission.*

*• There are residential areas adjoining the Shaktinagar to Auri to Anapra Road of Uttar Pradesh which remain heavily affected due dusty surroundings.”*

The Committee verified compliance status by different Thermal Power Stations, Coal Mines and Stone Crushers and found serious violations and failure in controlling the air pollution in violations of EC and consent conditions. The Committee has recommended measures required to be followed by the different projects. Observations and recommendations of the Committee are as follows:-

“➤ The coal transported via road majorly goes to Uttar Pradesh (UP) by the route of Shaktinagar to Auri to Anapara (UP) & other places. The second major road route opted for transporting the coal is Jayant mod to Shukla mod to Auri to Anpara (UP) & other places.

➤ The road widening and road repairing work was ongoing of prominent road route of Madhya Pradesh i.e. Jayant mode to Shukla Mod.

➤ The coal dust was found lying on the side of the road route of Jayant to Singrauli to Auri Road. However, ongoing cleaning work was also observed during visit.

➤ The water sprinkler & fogger were found operation on the road route of Jayant mod to Shukla mod

➤ **The coal transportation was being done in trucks and tippers. On random check of the vehicles covers, it was found that a good number of covers were either damaged/torned or were inadequate to cover the truck fully to avoid fall of coal. Secondly the quality of the cover used is also not good. Heavy duty HDPE tarpaulin or cloth cover of required thickness (such as 400GSM or more) to be used for avoiding fall of coal from vehicles. Automatic / mechanical type of tarpaulin cover system shall be installed on each vehicle carrying coal as envisaged in the CPCB Guidelines of 2013 for the transportation of fly ash, for the transportation of coal as well.**

➤ **On random check, it was observed that the dry ash is being transported in bulkers and specially designed covered trucks whereas the wet ash was being transported in truck with full cover on the truck. Transportation of wet ash through tractors is also in practice. However, as stipulated in the CPCB guideline, 2013; currently no such mechanically designed covered trucks are in use to transport the ash from the ash dyke.**

➤ **No effective vigilance through CCTV was found on the major routes of coal & ash transportation.**

➤ **M/s. Suliyari Opencast Coal Mines Project (APMDC) transporting its coal 100% via road to Gajra Behra coal siding and M/s Mahan Energen Ltd Thermal Power Plant and proper upkeep of the transportation road and its timely wetting by water sprinkling has been found to be a concern, about which a large number of local villagers have recorded their protest before the visiting team.**

➤ Progress was observed in the coal mines regarding the proposed new coal handling plants. But the concern remains that the coal mines has undergoing capacity expansion day by day. May be that percentage-wise the coal transportation by road may look less due to installation of added capacity of CHPs, but consequent to the capacity expansion, quantity (tonnage) of coal transport will also increase. Hence strict compliance and vigilance on the part of coal mines will be more required.

➤ **Bad transportation road and delaying in road construction also seems to be cause of concern for the dust on the roads, or trucks dropping coal / fly ash on roads due to bad road conditions, ruts and pot holes etc.**

### **8.0 Recommendations**

- i. The transporters are using poor quality/ineffective tarpaulin of thin layer as the thickness of tarpaulin is not specified yet. The coal mines & TPPs may be directed to ensure that the truck/tippers cover is of heavy duty such as 400GSM & more thickness and adequate is size to avoid fall of coal & ash on road during transport
- ii. Coal mines, Thermal Power plants and District Administration may jointly establish the night vision Pan-tilt-zoom CCTVs & lights at prominent locations along the roads used for transportation of coal & ash. Also establish a control room (24x7) at the Office of Collector/traffic police office with dedicated staff to have effective vigilance on the vehicles engaged in coal and ash transportation.
- iii. The TPPs / Coal mine should also device a mechanism to impose penalty on violation by the truckers / transporters including blacklisting the violators or not allowing the trucks found with improper body or insufficient covers to enter their premises to load coal / fly ash. A checklist in this regard shall be maintained at the entry to the mines/TPPs and vehicles not adhering to the norms shall not be allowed to enter the mines/TPPs. Such checklist shall be made available to all the regulatory authorities on request.
- iv. Coal mines in consultation with third party agency and road making authorities (NHAI, MPRDC/PWD) shall formulate a traffic management plan with emphasis on road safety on the prominent routes of coal & ash transportation to decongest the traffic and minimize possibility of accidents
- v. Coal mines & TPPs to ensure that all the vehicle engaged in transportation of fly ash & coal has valid Pollution Under Check (PUC) certificate and also carryout periodic random PUC check of the vehicles in co-ordination with Regional Transport Office.
- vi. Thermal Power plant shall engage mechanically designed vehicles to transport the wet ash too.
- vii. MPPCB to ensure effective implementation of the CPCB guideline (2016) for “disposal/ utilization of Fly ash for reclamation of low-lying areas and in stowing of abandoned mines/quarries”. Further, MPPCB shall provide the low-lying area for filling as per

- the notification and place the allotted locations details (agency, capacity, geo-location etc.) on their website.*
- viii. Nagar Nigam shall deploy mechanized road sweeping machines (on contractual basis) all along the coal & fly ash transportation corridor falling within the municipal limits and the expenditure incurred for the said contract shall be borne by the respective coal/fly ash producers based on their contribution towards road transport.*
  - ix. The district administration in consultation with the neighboring state of UP as well as PWD / Nagar Nigam shall make short term and long-term plan to create alternate / separate roads for the coal / fly ash transportation and for the commuting of the general public.*
  - x. The NAHI should ensure that the work of the National Highway (NH 39) that is being under construction for a long time should be completed at the earliest.”*

#### **4. With regard to area falling in UP**

Identical situation has been found. The report mentions site inspection on 21-22.02.2023 of Coal Mines, Thermal Power Plants and Stone Crushers as per details mentioned. Violations have been found in operation of the said units during transportation of coal, fly ash handling and operation of stone crushers. Recommendations have been made with regard to all the three activities as follows:-

**“22. Recommendations:** *Following are some of the recommendations suggested by the committee to control the air pollution in the area.*

#### **Steps needs to be taken for Fly Ash management and Transportation**

*22. 1. The TPPs can be asked to strictly follow the CPCB guideline for transportation of pond ash by road. The conditions specifically related to moisture content in the transported ash and vehicle condition need to ensured strictly.*

*22.2. TPPs also needs to install tyre cleaning facility for transportation vehicle before reaching to the public road.*

*22.3. The TPPs can be asked to explore the possibilities to increase the use of dry ash instead of pond ash, as the dry ash transportation through bulker is relatively less polluting.*

22.4. The TPPs can be asked to maintain wet surface condition of the ash dykes to avoid the dust emission during the windy condition.

22.5. Committee observed that the fly ash dyke management of the almost all thermal power plant is not up to the mark (Stabilization, maintenance, slope, water recirculation system, transportation, etc.) specially with Obra TPP, Anpara TPP and Shaktinagar TPP. Fly ash dyke can also play pivotal role in generation of dust specially during summer due to improper management. Overall, its management need to be review. MOEF&CC and CPCB can jointly review the Fly ash dyke Management of the entire dyke available in the area in question.

22.6. Improper fly ash dyke management can trigger dyke breaching in the area in question which ultimately plays a significant role in dust emission. Necessary measures can be taken by all TPPs.

22.7. Majority of Road connected from fly ash dykes to main road are unpaved. Local administration can ensure that the all-approach road can be blacktopped and uses of water sprinkler on regular basis for controlling of dust within six months.

22.8. UPPCB can be asked to initiate action against the defaulter TPPs for the various violations as mentioned in the report above

22.9. The illegal dumping of ash along the road sided and inside the forest area is the matter of serious concern. And at the same time none of the TPP is taking responsibility for this dumping. Hence, the vehicle involved in the ash transportation should be GPS enabled and every TPP can be asked maintain the record of the GPS tracking for cross verification

22.10. Similarly, considering the difficulty in monitoring such kind of illegal disposal and fixing the responsibility of the violator, a group of representatives from every TPP can be formulated. Every TPP can be asked to nominate the official working as chief of the environmental cell in the group. And this group can be made responsible for finding out TPP unit responsible for such illegal disposal of the ash. And in case, this group fails to identify the violator, all the TPPs can be held responsible and equal penalty can be imposed through UPPCB.

### **Steps needs to be taken for Coal handling and Transportation**

22.11. Every NCL mining project should install adequate number of fog cannon machines at all the strategic point inside the mining area to suppress the airborne dust. UPPCB should review the installation of the systems on periodic basis

22.12. All the NCL mines should review the frequency of the water spraying on the internal roads through the tankers.

22.13. Every NCL mine should develop SOPs to monitor the status of fugitive emission in the mine area through existing CCTV network. The SOPs should contain guideline to take steps to control the fugitive emission.

22.14. NCL mines can be asked to brought down the road transportation below 10% to comply with the condition of the Environmental Clearance.

22.15. Every NCL mine should install the tyre cleaning facilities for the vehicles used for road transportation of coal and it should be ensure that the tyre of the vehicle reaching to the public road is free from the coal dust

22.16. NCL mining projects should ensure close monitoring of the vehicle involved in the coal transportation. And at any cost the vehicle without authorized number plates and leakages in the body of vehicle should allowed for transportation.

22.17. Every NCL mine should collect the coal dust deposited along the public road by deploying vehicles with vacuum extraction system, and should ensure the beneficial usage od the collected coal dust. They can be asked to maintain records of the same for the verification purpose

22.18. Every NCL mine should strictly comply the condition of the tarpaulin cover on the transportation vehicles as mentioned in the office memorandum issued by MoE&CC. At any cost the coverage through LDPE plastic sheets or green net should be permitted.

22.19. Every NCL mining project should construct a concrete approach road from the coal mine gate to the public road and should also ensure its maintenance and cleanliness.

22.20. Significant quantity of dust is also emitted during loading of coal/fly ash on railway wagon. It is utmost important by concern project to adopt closed loop system for minimization of the dust during loading of coal/ fly ash in railway wagon at earliest.

22.21. As suggested for the TPPs above, a group of representatives from every NCL mining project can be formulated having with officials working as chief of the environmental cell in each project. This group can be made responsible for ensuring coal dust free public roads. And in case, this group fails to comply, equal penalty can be imposed through UPPCB on all the mining projects.

22.22. The TPPs receiving coal through road should ensure that the truck used for transportation is properly covered with tarpaulin. And in case of default, the same can be reported to NCL for taking necessary action

22.23. Every TPP should deploy adequate number of fog cannon machines to control the dust from coal storage areas.

22.24. UPPCB should take immediate action against the N CL mining projects wherein in coal fire incidents are observed.

**Steps needs to be taken to control fugitive emission from other industrial sectors**

22.25. M/s Hindalco should deploy adequate number of fog cannon machines to suppress the dust from the red mud storage area. UPPCB can initiate action against the unit for not taking any precautionary measure to control the fugitive emission from red mud storage areas.

22.26. The sever air-borne dust in the stone crusher area is matter of serious concerns.

22.26.1. UPPCB can be asked installed separate CAQMS on the stone crushing area i.e., in Dalla area, for regular monitoring of air quality. Till the time UPPCB should manually monitor the ambient air quality of the area at least twice a week.

22.26.2. Local admiration can take cognizance of the air quality data and take prompt action on it. All stone crusher plant can be closed, if, fails to complying the Ambient Air Quality Norm. Responsibility of the individual industry can also be fixed on the non-compliance of the Norms prescribed under AAQ after six months.

22.26.3. No further stone crushers should be allowed in these clusters as UPPCB has a stone crusher siting guidelines requiring distance between any two stone crushers.

**Steps needs to be taken for betterment of public road condition**

22.27. Setting of advance CCTV Camera network on main public roads used for the transportation of the coal, fly ash etc. for proper surveillance. In a first phase the Auri Mode to Shakti Nagar Road can be considered for installation of CCTV surveillance.

22.28. Each unit can be asked to deploy the adequate number of mist guns/ fog cannons to suppress the airborne dust. The required number can be calculated by UPPCB considering the capacity of the unit and number of trucks involve in road transportation

22.29. To avoid the disturbance to the public transportation and to control the air pollution, Scientific Transportation Management Plane (STMP) need to be prepared by Local Administration under consultations with the UPPCB, the plan can be scientific based on the



*peak dust emission on the road, which can be easily assess by the data of installed CAQMS, average vehicular movement per day etc.*

*22.30. Unpaved area of road side can be paved by using fly ash block, which may substantially reduce the dust emission on the road.*

*22.31. Regular and substantial road cleaning is another way to minimize further dust emission specially from the both side of median and unpaved area of the road. The coal dust deposited along the roadside needs to be collected through the vacuum extraction system for beneficiary utilization.*

*22.32. It has been observed that the median of the national highway are without any green cover of plant, it is utmost important to create proper green cover on the median of the National Highway by concerned authority for controlling of road dust.*

*22.33. The establishment of the road green belt (RGB) is an effective means to reduce particulate matter (PM<sub>2.5</sub>) emissions from road traffic. It is utmost important to execute CPCB guideline for controlling of dust emission.*

*22.34. District administration through NHAI can explore the possibility to develop green belt along the road side in accordance with the guideline developed by Indian Road Congress (IRC).*

#### **Steps required to resolve other identified issues**

*22.35. Local administration through police can controlled the unauthorized coal burning used by local people and shops. More stringent surveillance is required during winter.*

*22.36. UPPCB can ensure that the each and every industry colony will setup concrete Solid Waste Management System (SWMS) to avoid further burning of solid waste within six months.*

*22.37. Dust sequestration study of individual unit can be conducted by organization of international repute likes, BHU, NEERI, IIT etc.*

*22.38. Chief Medical Officer (CMO) can be asked to conduct survey among the people living side of the highway, dust prone area in light of lung related disease etc. In addition to above he may also create separate inventory for the asthmatic patient of the area in question*

*22.39. The action can be initiated in under Forest Act against Mis Renusagar TPP and M/s Obra TPP for carrying out excavation/ mining in the forest area.*

**Further, it is humbly submitted that the Hon'ble NGT in the matter of OA No 164/2018 has constituted a fly ash**

***management and utilization Mission to be jointly headed by the Secretaries, MoEF&CC, Coal and Power, Gal, and Chief Secretaries of UP and MP. It is pertinent to note that the issues raised in the present application are closely linked to the scope of the aforementioned Mission. And hence the finding of the committee can be referred to the Mission for its consideration.”***

5. **Report dated 28.04.2023 of UP State PCB** mentions follow up with reference to recommendations of the joint Committee with regard to units in UP - NCL-Bina, Distt. Sonbhadra and Obra Thermal Power. Closure order has been passed against seven defaulting stone crushers under the Air (Prevention and Control of Pollution) Act, 1981.

#### **Consideration and further directions**

6. We have considered the matter in the light of the above. From the factual report by the joint Committee, it is seen that covers of the vehicles used for transportation were inadequate to prevent spillage of coal. Quality of covers was not good. There are no mechanically designed covered trucks to transport ash nor effective vigilance through CCTV. There was no timely sprinkling which was resulting in air pollution. Thus, there are violations which need to be stopped forthwith and accountability fixed for past violations. We have noted from the report that following units are operating and have been found to be violating the norms by the Committee in M.P. and U.P:-

#### **IN MADHYA PRADESH**

##### **Thermal Power Plants**

1. M/s. Vindhyachal Super Thermal Power Project-NTPC, Stage -I (6 Units)  
M/s. Vindhyachal Super Thermal Power Project - NTPC Stage II (2 Units)  
M/s. Vindhyachal Super Thermal Power Project, NTPC, Stage-III, (2 Units)  
M/s. Vindhyachal Super Thermal Power Project Stage-IV, (2 Units)

M/s. Vindhyachal Super Thermal Power Project Stage-V (1 Units)

2. M/s. Sasan Power Limited, Village, Siddhikhurd, Post- Tiyara, Tal & Dist: Singrauli (M.P.) (6 Units)
3. M/s Jaiprakash Power Ventures Ltd.-Jaypee Nigrie Super Thermal Power Project, Vill. - Nigrie, TahsilDeosar Distt. - Singrauli MP (2 Units)
4. M/s. Mahan Energen Limited (Formerly Known as Essar Power MP Ltd.), Vill: Bandhaura, Teh. Mada, Dist: Singrauli (M.P.) (2 Units)
5. M/s. Hindalco Industries Limited- Mahan Aluminum Project, Vill: Bargawan, Tal: Devsar, Dist: Singrauli (M.P.) (6 Units for captive power generation)

### **Coal Mines**

1. M/s. Bina Ext Project- NCL
2. M/s. Khadia Project-NCL,
3. M/s. Dudhichua ProjectNCL
4. M/s. Jayant Project-NCL
5. M/s. Nigahi Project-NCL
6. M/s. Amlori Project-NCL
7. M/s. Block B Project-NCL
8. M/s. Jhingurda Project-NCL
9. M/s. Suliyari Opencast Coal Mines Project ( APMDC)
10. M/s. THDC India Limited
11. M/s. Amilia North Coal Mining Project, Jai Prakash Power Ventures Ltd
12. M/s. Moher & Moher, Amlori Extension

### **IN UTTAR PRADESH**

#### **Coal Mines**

1. NCL Dudhichua
2. NCL Bina
3. NCL Khadia
4. NCL Krishnashila
5. NCL Kakri

#### **Thermal Power Plants**

1. M/s NTPC Rihand
2. M/ s Anpara TPP
3. M/s NTPC Shakti Nagar
4. M/s Lanco TPP
5. M/s Renusagar TPP
6. M/s Obra TPP

**Other Industries**

1. M/s Hindalaco Industry
2. M/s Ultratech Cement, Dalla
3. M/s Ultratech Cement (Dalla Super)
4. M/s Grasim Chemical Industry
5. M/s Birla carbon black

7. It is further mentioned that there are around 313 stone crushers operational near the Dalla area. Other units have to be identified.

8. The report also states that the issue of fly ash management in the area by thermal power stations stands covered by the directions of this Tribunal vide order dated 18.1.2022 in OA 164/2018, Ashwani Kumar Dubey v. UOI and thus remedial action with regard to the violations now found can be overseen by the said committee.

**Directions**

9. In the light of above, concerned PPs - Thermal Power Plants, Coal Mining Units and Stone Crushers and also management of Railway Siding have to forthwith take necessary preventive and remedial measures, including measures to control dust emissions while transporting coal and fly ash as well as during industrial operations in terms of EC and consent conditions. Fly ash handling and utilization has to be in accordance with laid down procedures. In case of violations, statutory regulators have to close such units till compliance. Further, accountability has to be fixed for past violations. The measures so far taken by UP State PCB are not adequate. There is no report about remedial action by the MP State PCB.

10. The report of the Committee is available on the website of NGT. The respective State PCBs may also place the same on their websites so that PPs can access the same and give their response.

11. As rightly pointed out by the Committee, the issue of fly ash management in the area by thermal power stations has already been dealt with by the Tribunal vide order dated 18.1.2022 in OA 164/2018, *Ashwani Kumar Dubey v. UOI*. Operative part of then order is as follows:

“21. In the light of above discussion, it is patent that remedial measures are required in terms of recommendations set out in para 15 above in respect of individual TPPs or other projects as well as general issues applicable to all the TPPs such as timely installation of air pollution control and monitoring devices, timely utilisation and disposal of fly ash, scientific designing of fly ash dykes and safety norms, addressing public health issues, steps for restoration of deteriorated environment by bringing down CEPI scores in the entire area, restoration of Rihand Reservoir and other damaged/ degraded areas, providing arrangement for public health facilities, including water supply and by coordinated and concerted efforts and high level monitoring. The PP are to be accountable for past violations and are under obligation to remedy the violations and follow the norms for future. The regulators are to enforce the same and higher authorities are to oversee. Accordingly, following direction are issued:

- i. **We direct constitution of a fly ash management and utilization Mission to be jointly headed by the Secretaries, MoEF&CC, Coal and Power, GoI and Chief Secretaries of UP and MP. The Secretary, MoEF&CC will be the nodal agency for coordination and compliance.** The Mission will coordinate and monitor issues relating to handling and disposal of flyash as well as all associated issues in the light of above discussion. It may hold its first meeting within one month to take stock of the situation and to prepare action plan in the light of recommendations of Joint Committees quoted earlier in para 15 above in respect of individual plants as well as road map generally. Thereafter, it may meet atleast once in a month for one year to review the progress. The resolutions of the Mission and quarterly progress may be placed on the website of MoEF&CC for information of the stake holders and inhabitants in the area. The Mission will be free to interact with the concerned Government Departments/ Expert institutions/ individuals/ other stakeholders. The Mission may in its first meeting require voluntary financial contribution by all the projects in proportion of the financial capacity of the projects out of CSR funds or otherwise. The contribution, alongwith compensation which may be collected may be credited to a separate environment restoration account for restoration of environment and relief to the victims of damage to the environment in such manner as may be found necessary by the Mission. Any victim or aggrieved party will be free to approach the Mission for providing such relief. The Mission may also consider the safeguards laid down in the Notification dated 31.12.2021,

particularly for safety audits of the ash dykes which should be conducted particularly for structural stability, as far as possible within six months. Advisory issued by the Ministry of Power dated 22.9.2021 will not be enforced being against the spirit of notification dated 31.12.2021 and obstructing much needed speedy utilisation/disposal of legacy flyash. The Mission may evolve mechanism for interaction with stake holders, including associations of brick kiln owners. Guidelines be also issued for siting, design and engineering standards for the location, disposal, maintenance and regulation of Ash Ponds as breach of a fly ash ponds result in great disaster. Public health and risk impact assessment in the areas of operation of TPPs and generators of fly ash may be got conducted. The Mission may also monitor scientific management and utilization of fly ash by power projects outside Singrauli and Sonebhadra, in coordination with Chief Secretaries of concerned States and adopting safety measures for ash dykes, installing devices to control air pollution, (including FGDs, OCEMS) in a time bound manner and restoration of environment and public health. The Mission may also consider use of beneficiated coal. It may in particular consider on-site and off-site crisis management plans with regard to fly ash ponds and dykes. As noted earlier, legacy fly ash is 1670.602 Million Tonnes as on 31.12.2021 and data of ash generation and utilization of legacy fly ash is as follows:

**“Summary of Ash Generation and Utilization during year 2020-21**

No. of Thermal Power Stations:	191
Capacity (MW)	: 2,13,030 MW
Coal consumed	: 672.130 Million Tonnes
Fly Ash Generation	: 222.789 Million Tonnes
Fly Ash Utilization	: 205.098 Million Tonnes
Percentage Utilization	: 92.06%
Legacy flyash	:1670.602 Million Tonnes

The Committee of Secretaries, in coordination with PPs and statutory regulators, may draw a roadmap for utilization and disposal of entire legacy fly ash for Sonebhadra and Singrauli areas as well as for all the Power Plants located in clusters or standalone with tagging the sources to utilize fly ash on voluntary and compulsion mode for which required mechanism be laid down.

- ii. **With regard to past violations, the PPs remain liable and the Joint Committee of CPCB, State PCB and jurisdictional District Magistrates may determine compensation following due process, on the principles laid down inter alia in M.C. Mehta, (1987) 1 SCC 395, Sterlite (2013) 4 SCC 575 and Goel Ganga (2018) 18 SCC 257, having regard to the period of violation and financial capacity of the unit. The PPs may take**

**remedial measures as per recommendations of the Committee and as per law, failing with coercive measures for continuing or future violations be taken by concerned authorities.**

- iii. *Statutory regulators may take action in terms of need for compliances in the light of recommendations with regard to individual Plants as well as generally so as to require the concerned PPs to comply, failing which coercive measures be taken by the statutory regulators in accordance with law.*
- iv. *In respect of incident dated 10.04.2020, compensation paid to heirs of the deceased at the rate of Rs. 10 lakhs per death is increased to Rs. 15 lakhs on principles laid down inter alia in Sarla Verma (2009) 6 SCC 121 and Uphaar Cinema (2011) 14 SCC 481. We direct the remaining amount to be paid within one month. This order will not debar the heirs of the victims to claim higher compensation by approaching appropriate forum. If the salaries to persons appointed as compensation to the victims are below minimum wages, the PP may ensure compliance of law on the subject which may be also looked into by the concerned Labour Departments of the State of UP and MP. The statutory regulators may take further remedial action in terms of recommendations of the Committee in OA 148/2020, quoted earlier for restoration of environment and preventing such incidents.*
- v. *With regard to breach of Rihand Reservoir also, further remedial measures be taken in terms of recommendations on the subject, quoted in para 15 above.”*

**12. Accordingly, a copy of the report be forwarded to the Secretary, MoEF&CC for further action in terms of above order considering violations found by the Committee. An action taken report in the matter be filed within three months by the Secretary, MoEF&CC. CPCB may give information with regard to action taken for past violations in terms of direction (ii) above.**

13. With regard to the issues not covered by the order dated 18.01.2021 i.e. compliance by mining units and stone crushers, we constitute a joint Committee of CPCB, UP and MP PCBs and District Magistrates and DFOs Singrauli area in UP and MP (nodal agency being CPCB and concerned State PCB) to oversee compliance of norms and determine the liability of erring units on ‘Polluter Pays’ principle for past violations having regard to nature and extent of violation, cost of remediation and turnover of the units. This exercise be completed within three months. The joint

Committee may also undertake carrying capacity of the area to sustain the number of stone crushers and siting criteria required to be followed including in terms of *inter-se* distance. Such carrying capacity be calculated based on the available data. Forest Departments of UP and MP may also take necessary action under the relevant statutory provisions to ensure that no fly ash/ash slurry or waste is dumped in forest area and necessary and requisite plantations are undertaken. The Forest Departments may also take necessary action against the violators, following due process of law. The Committee may also give the status of execution of plan to bring down Comprehensive Environmental Pollution Index (CEPI) level. **The joint Committee may give its report by 15.09.2023** by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. Copy of the report may also be furnished to the stakeholders by placing the same on appropriate website, intimating the said stakeholders. Any party wishing to file their response may do so by 30.09.2023. Erring units may be put to notice of these proceedings by the concerned State PCB so that they have opportunity to file their respective response before this Tribunal, if so advised. If no response is filed, this Tribunal will pass further orders with regard to their accountability. Chief Secretaries of UP and MP may look into the issues with regard to measures to be taken by the State Administration such as construction of necessary roads in the area. Inter-state coordination mechanism may also be reviewed and strengthened. It is made clear that if there is a failure, the liability of the said States will also be determined by this Tribunal on the next date. In absence of any other data, the compensation of erring units may be determined at the rate of 1 per cent of the turnover of the concerned unit subject to assessed cost of remediation being recovered.



List for further consideration on 11.10.2023.

A copy of this order be forwarded to Secretary, MoEF&CC, Chief Secretaries of UP and MP, CPCB, UPPCB, MPPCB, District Magistrates and DFOs Singrauli area in UP and MP by e-mail for compliance.

I.A. No. 309/2022 has been filed for permission to file additional documents comprising of photographs of factual position on SH 5A Audi-Shaktinagar Road and NH-39 Singrauli Dibulganj- Renukoot Road located in Anpara, Sonbhadra, UP. The additional documents are taken on record but the applicant may serve the same on CPCB, UPPCB and MPPCB for consideration by the joint Committee. I.A. No. 309/2023 stands disposed of accordingly.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 10, 2023  
Original Application No. 862/2022  
(I.A. No. 309/2022)  
SN