

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

Original Application No. 164/2018
(Earlier O.A.No.276/2013)

WITH

Execution Application No. 22/2018
IN

O. A. No. 276/2013

(With report dated 29.10.2019)

Ashwani Kumar Dubey

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 05.11.2019

CORAM:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant (s):

Mr. Pankaj Sharma, Advocate

For Respondent(s):

Ms. Vidushi Garg, Advocate for R-10 to 12
Dr. Ashwani Bhardwaj with Kavita Rawat,
Advocates for R-33&35
Mr. Anip Sachthey, Senior Advocate with Ria
Sachthey, Advocate for R-36
Mr. Rajkumar, Advocate for CPCB
Mr. Daleep Dhyani, Advocate for UPPCB
Mr. Pradeep Misra, Advocate for R-19&20
Mr. Rajat Jariwal, Advocate for Grasim
Industries.
Mr. Gaurav Dudeja, Advocate for Lanco Anpara
Ms. Deep Shikha Bharati, Advocate for State of
UP

ORDER

1. Issue for consideration is remedial action against pollution and violation of environmental norms by Thermal Power Stations operating in Singrauli and Sonebhadra Districts of Madhya Pradesh

and Uttar Pradesh resulting *inter-alia* in air pollution, water contamination and large scale of damage to public health.

2. Vide order dated 24.05.2016, this Tribunal sought a factual and action taken report from a joint Committee comprising of the Ministry of Environment, Forest and Climate Change (MoEF&CC), the Central Pollution Control Board (CPCB), the Uttar Pradesh Pollution Control Board (UPPCB) and the Madhya Pradesh Pollution Control Board (MPPCB) with reference to the allegation that Thermal Power Stations operating in the Districts of Singrauli and Sonebhadra in the States of Madhya Pradesh and Uttar Pradesh being Northern Coalfields Limited Singrauli, Northern Coalfields Limited Kakri Project, Post Kakri, District-Sonebhadra, Uttar Pradesh, Northern Coalfields Limited Bina Project Post Bina District Sonebhadra, Northern Coalfields Limited Krishna Shila Project, Northern Coalfields Limited Kadia Project, Post Khadia District Sonebhadra, Northern Coalfields Limited, Dudhichuwa Project, Post Khadia District-Sonebhadra, UP were causing damage to the environment. The violation of environmental norms was resulting in damage to water bodies, including Rihand Reservoir. Surface and underground water was polluted affecting rivers like Son, Renu, Bijul, Kanhar, Gopad, Pankagan, Kathauta Kachan, etc. and streams/nalas like Ballia Nala, Chatka Nala, Kahuwa Nala, Tippa Jharia, Dongia Nala, etc. Water had been contaminated by toxic effluents discharged, chemicals and fly ash and was not fit for consumption.
3. The Tribunal after considering the report vide order dated 28.08.2018, constituted a Committee headed by Justice Rajesh Kumar a former Judge of the Allahabad High Court to prepare a time

bound action plan to deal with the problem and to monitor its implementation and send reports of the action taken by it to this Tribunal.

4. The Tribunal dealt with the report of Justice Rajesh Kumar Committee dated 14.12.2018 vide order dated 03.01.2019. The report, *inter-alia*, mentioned lack of proper management of ash ponds, disposal of red mud and steps necessary for control of air and water pollution. The Tribunal directed the concerned State Pollution Control Boards (SPCBs) and the Central Pollution Control Board (CPCB) to take remedial measures and furnish a status report about the ambient air quality, water quality of the reservoir and other water bodies to the Oversight Committee. The States were also to give their reports about the health status of the citizens in the affected areas and to prepare plan for providing potable water through pipelines in a time bound manner.
5. Second report of Justice Rajesh Kumar dated 28.06.2019 was considered on 19.07.2019. The report suggested ban on manufacture of red bricks by use of clay/soil and burning coal so that more fly ash could be utilized. This aspect was directed to be looked into by the MoEF&CC and the CPCB. The Committee was to give further report setting out recommendations cumulatively at one place. The Tribunal also directed compliance of observations of the CPCB with regard to operation of STP, establishment of piezometers and remote calibration as well as other deficiencies forthwith which was to be overseen by the CPCB. CPCB was to assess compensation for the damage to the environment.

6. Reports dated 21.08.2019 and 23.08.2019 were filed by the MPPCB and UPPCB. In O.A. No. 453/2019, a direction was sought for implementation of the said reports on the issue of environmental compensation in respect of 11 units in the State of Madhya Pradesh and 10 units in the State of Uttar Pradesh. The Tribunal directed the SPCBs to proceed in accordance with law to recover the compensation assessed.
7. The matter has been put up today mainly for consideration of the report filed on 29.10.2019 by Justice Rajesh Kumar dealing with the issue of management of fly ash by thermal power stations and the damage caused to Rihand reservoir which is a source of water for operation of thermal power plants and other industries and also for drinking purposes by the inhabitants. The Committee observed that the capacity of the reservoir was reduced due to draining of effluents and fly ash which required desilting. Fly ash dykes of Essar Power was breached on 07.08.2019 and of NTPC on 06.10.2019. Slurry was flowing on the ground causing damage to the crops. Slurry also travelled upto Rihand reservoir. This gave rise to emergent situation. The Committee held a meeting. The Committee prepared its agenda on the subject as follows:

"Generation and storage of Fly-ash in Thermal Power Plants is becoming a great cause of concern affecting the environment. Due to the regular storage of Fly-ash in Fly-ash Dykes since long, affecting air pollution, has led the Ministry of Environment, Forest and Climate Change, Government of India to declare the Sonbhadra and Singrauli area as a most critically polluted area. No proper roadmap has been presented for its proper disposal by the Thermal Power Plants.

It has been noticed that in recent times there had been breach of Ash Dykes of two Thermal Power Plants in Singrauli district of Madhya Pradesh, which has resulted in discharge of Ash slurry to the river as well as to Rihand

Reservoir adversely affecting their water quality. These Ash Dyke pertains to Thermal Power Plants (TPPs) namely Mjs Essar Power Ltd and NTPC, Vindhya Nagar. These incidence are of serious concern and indicates improper and non scientific design of Ash Dykes. The Oversight Committee constituted by Hon'ble NGT has taken this matter very seriously and also discussed in the previous meeting. In this regard a meeting of the Committee is convened on October 22, 2019 at 11:00 AM in Circuit House at Prayagraj to discuss various issues related to handling of Ash and their disposal. The agenda of the meeting is as below: -

All Thermal Power Plants have to talk about the structural design of their Ash Dykes to prove that their Ash Dykes are proper and scientifically designed.

1. To discuss with all the Thermal Power Plants about structural details of their Ash Dykes and their adequacy for handling of Fly Ash generated. Whether submitted the details of ash dykes to SPCBs and taken permissions from SPCBs .
2. All Thermal Power Plants have to talk about the structural design of their Ash Dykes to prove that their Ash Dykes are proper and scientifically designed.
Submission of affidavit by TPPs in compliance of decisions taken in the last meeting of Committee regarding adequacy of Fly Ash Dyke. The status will also be shared about the action taken by TPPs for third party assessment of Ash Dyke of their plants through expert institutions like NEERVIITs.
4. Thermal Power Plants may submit their roadmap for the future disposal of the stored Fly-Ash as well as the currently generated Fly-Ash.
5. What effort has been made to fill up the Fly-Ash in the abandoned Coal Mines and Stone Mines? Whether any letter has been written to the Mine-owners or to the concerned Authority in this regard, seeking permission in light of the discussion in the earlier meeting(s)?
6. To provide opinion about option of developing mounts of Ash Dyke as done by NTPC Thermal Power Plant, Dadri, where green cover has been developed by covering it with the top soil.
7. Submission of status by NTPC Vindhya Nagar about necessary clearance from Madhya Pradesh Pollution Control Board about Gorbi mines and disposal of Fly Ash.
8. Preparation of DPR for project of desilting the Rihand Reservoir and bearing of such expenditure by Thermal Power Plants of the area on polluter pay principle.

All the Thermal Power Plants situated in the State of U.P. and M.P., Members of the Committee, District Magistrate of concerned districts may be informed to attend the meeting with relevant information as per Agenda."

8. The deliberations of the Committee have been summed up as under:

“Thermal Power Plants — Ash Utilization:

NTPC-Vindhyanagar: Shri V.K. Maurya, Deputy General Manager (Civil_Design) NTPC, New Delhi along with Shri Debashis Sen, Executive Director (Vindhyanagar) states that they could not comply the direction given by the Committee in the earlier meeting and could not submit the affidavit till today. They could not file any reply to the points raised in the Agenda of notice. However, Shri V.K. Maurya tried to explain that their Fly Ash Dyke was constructed in accordance to the norms and time to time, when the height of the Dyke was raised, the technical advices were also taken from the experts. However, no evidence in this regard has been produced before us. Despite asking from us that whether they have brought any reply to the points detailed in the agenda, Mr. Jain another officer states that they have everything. The periodical inspection has been made by the various internal department officers but he admitted that no assessment or report by third party agency has been obtained with regard to Fly Ash Dyke. Prima facie, the Committee is off the view that the officers of the NTPC are still not serious. They have not complied with the direction given by the Committee in the earlier meeting. The affidavit has not been filed. Recently, we came to know that there was a breach of Fly Ash Dyke on 06.10.2019 due to which huge quantity of fly ash slurry travelled alongwith the ground causing damage to crops and the fly ash travelled up to the Rihand Reservoir. If as per the version of Mr. Jain and Mr. Maurya everything was perfectly all right and time to time dykes have been checked why this incident happened. The incident itself shows that there was some deficiency in the construction of Fly Ash Dyke. The whole purpose for asking the affidavit in the earlier meeting was to get their dykes checked properly from the third party experts inasmuch as these dykes were originally constructed much earlier, in the present case in the year 1981. Plant is not able to produce any roadmap for the disposal of the stocked Fly Ash and the currently generated Fly Ash. A continuous process of stocking the Fly Ash is going on, which is causing environmental effect every day. In this view of the matter, the Committee is of the view that the Plant is liable for the compensation/penalty for causing environmental damage every day.

Later on, at the end, they have provided an affidavit. The averments made in the affidavit are vague and casual. The paragraphs are sworn on the 'personal knowledge' and not on the basis of documents. We are not satisfied with the averments made in the affidavit. Sri Jain submitted that some time may be allowed to get the Fly Ash Dyke inspected by the third party agencies. He prays and is allowed one month time to get the Fly Ash Dyke inspected by the third party agencies like IIT or any other agencies, who are experts on the subject. He further submitted that he may be allowed a week's time

thereafter to give the reply of each and every point of the agenda of the meeting.

NTPC Shaktinagar: Shri Debashish Chattopadhyay, Chief General Manager submitted an affidavit in respect of the Fly Ash Dyke. From perusal of the affidavit it appears that the averments are vague and general in nature. The averments are sworn on the basis of personal knowledge and not on the basis of the documents. The Committee is not satisfied with the affidavit. Let the Plant may file a fresh affidavit after getting the report from the third party technical agency. He further submitted that due to the breach of the Fly Ash Dyke of NTPC Vindhyanagar and on account of the heavy pressure, their recycled water pipeline has been damaged resulting overflow of the water from the Dyke. He fairly admitted that some quantity of the over-flown water is going to Rihand Reservoir. He, however, assured that within a week the recycled water pipeline will be repaired and they may also get the technical structural stability report about their Fly Ash Dyke from third party agencies namely IIT etc. He submitted that he will submit the Affidavit within a period of one month giving reply of each and every point raised in the agenda.

NTPC Rihand: Shri Ranjan Kumar, G.M. NTPC Rihand submitted an affidavit. The averments made in the affidavit are vague and casual. The paragraphs are sworn on the 'personal knowledge' and not on the basis of documents. We are not satisfied with the averments made in the affidavit. He states that their Plant has already engaged IIT, Kanpur for the inspection and report in respect of the Fly Ash Dykes. The report may likely be obtained within one month. The Committee is of the view that let one opportunity may be given to the Plant to file a better affidavit along with the documents to demonstrate the action taken by the Plant in this regard and also the report of the third party agency in regard to the structural stability of the Fly Ash Dykes.

Lanco Anpara & U.P. State Power Corporation Ltd.: An affidavit has been submitted by the Anpara Thermal Project, a Unit of U.P. State Power Corporation Ltd. The affidavit is vague and general in nature. In support of the averments in the affidavit, no document has been annexed. There is no report of the third party technical agency. They are directed to give a better and detailed affidavit. It is stated that they have only one Fly Ash Dyke in which their fly ash as well as the fly ash of Lanco are being drained. The maintenance of the said Fly Ash Dyke is the responsibility of the Anpara Thermal Project, U.P. State Power Corporation Ltd. In this way, so far as the construction, stability and maintenance of the Fly Ash Dyke is concerned, Lanco is not responsible. The entire responsibility is upon U.P. State Power Corporation Ltd. The officer of U.P. State Power Corporation Ltd. submitted a report of 2018 wherein the structural stability of the Fly Ash Dyke has been examined. In the said report, it is approved that their Fly Ash Dyke is suitable for further raising of height up to 5 meters. The copy of the said report has been submitted before us. The Committee is of the

view that after raising the height, the Plant may get a further report in respect of structural stability in order to overrule any possibility of technical flaw. Shri A.K. Rai, Executive Engineer states that in the Fly Ash Dyke the rainy water of the catchment area also flows and in such a situation during the rainy season when the Fly Ash Dyke is full of water due to heavy rainfall etc. Sometimes the fly ash along with the water also flows to Rihand Reservoir. The Management of the Plant is very serious about this issue and has asked the District Administration to divert the Nala of the catchment area to somewhere to avoid any flow of fly ash in the Rihand Reservoir. The District Magistrate, Sonbhadra states that the Administration is very serious and taking all possible steps to get the Nala diverted. The work is likely to be completed within two months. Both Lanco and U.P. State Power Corporation Ltd. are directed to furnish their reply by filing a fresh affidavit in regard to each and every point of the agenda of the meeting.

Essar Power: The officers of the Company submitted the affidavit regarding their Fly Ash Dykes. They submitted that 80% of the fly ash which had flown due to the breach of the Fly Ash Dyke have been removed and 20% fly ash lying on the earth shall be removed within a period of one month. They submitted that for the assessment of the environmental damage they have engaged NEERI, Nagpur. The document relating to their engagement has been produced before the Committee. They stated that NEERI has asked for six months time to assess the environmental damage. They further submitted that for the structural stability of the Dyke and making it technically sound they have taken the advices from two professors of the IIT Roorkee, namely, Prof. K.S. Hariprasad and Prof. Narendra K. Samadhia. They have visited the spot. They are likely to give their report within a period of fifteen days. On the basis of their report, they may proceed to reconstruct their Fly Ash Dyke. It has also been informed to the Committee that there was a joint inspection done by the officers of the Central Pollution Control Board and the officers of the M.P. Pollution Control Board and on the inspection the report has been submitted wherein they found that the Plant has removed 80% fly ash and they are in the process of removing the remaining 20% of the fly ash. The Committee directs the Plant to submit the report of the IIT within fifteen days and thereafter also submit the progress report, of the steps being taken to reconstruct the Dyke. On the report being received from NEERI, the environmental compensation shall be assessed. Let the Company may give detailed reply of each and every point of the agenda of the meeting by filing an affidavit within one month.

Shasan Power Ltd.: The representative of the Plant submitted the affidavit. However, the report of the third party agency certifying the structural stability of the Fly Ash Dykes has not been submitted. They have also not submitted the reply of each and every point raised in the agenda. The representative states that they will get the report about the structural stability of the Fly Ash Dykes and give the reply of each and every point raised in the agenda within one month.

Hindalco Industries — Mahan Aluminium Project: *The Company is engaged in the manufacturing of Aluminium from Alumina and has a Power Plant of 900 MW capacity. It is submitted that they have 02 Fly Ash Dykes, one dyke has been completely filled to the capacity and the other is being used now. For the purposes of raising height of the Fly Ash Dykes they have engaged the BHU for technical advice and on the basis of the advice they will proceed further in the matter. The Committee is of the view that they may also get the report from the third party agency about the initial structural stability of the two Fly Ash Dykes. The Company has submitted an affidavit. The averments in the affidavit are general in nature. They are also directed to file a fresh affidavit giving reply of each and every point raised in the agenda within one month.*

Bajaj Energy: *The representative of the Plant stated that they have received copy of the agenda very late. Therefore, they could not collect the necessary documents. They sought time to furnish the details. Let the Plant may submit an affidavit relating to the structural stability of the Fly Ash Dykes and also give the reply of each and every point raised in the agenda, supported by the certificate from third party agency in this regard. They are directed to give the reply of each and every point of the agenda within a period of one month.*

M.P. Power Generating Co. Ltd.: *There are 04 (four) Units of this Company, namely:-*

- (1) ATPS, Chachai, District Anuppur, established in 2007.*
- (2) SGTPS, Birsinghpur, District Umariya, established in 2015.*
- (3) STPS, Sarni, District Betul — two Plants established in 2013 and 2017.*
- (4) SSTPP, Dongalia, District Khandwa, established in 2018.*

A consolidated Paper Book has been submitted in respect of all the Units. However, they have not submitted any Affidavit with regard to the Fly Ash Dykes and also the Certificate of the third party agency who are the Technical expert. The officers of the Company pray for one month time to submit the affidavit and the certificate. They have also submitted a roadmap for the disposal of the Fly Ash. A perusal of the roadmap reveals that in comparison to the other Power Plants, their Unit-wise disposal are quite satisfactory.

However, they admit that even after more than 90% disposal, the stock of Fly Ash still remains and they are making efforts to dispose it by negotiating with the Cement Plants and approaching the Government for permission to fill the Fly Ash in the abandoned Mines. It is submitted that they are hopeful to achieve the target shortly. Let the Company may file the affidavit and the certificate in respect of the structural stability of the Fly Ash Dykes within one month.

MB Power (Madhya Pradesh) Ltd.: The Company has submitted a presentation in the form of small paper book. However, they have not submitted any Affidavit with regard to the Fly Ash Dykes and also the Certificate of the third party agency who are Technical expert. The officers of the Company pray for one month time to submit the affidavit and the certificate. The representative of the Company states that their disposal of Fly Ash is at present more than 100% and there is very little stock of Fly Ash lying in the Plant. For the further disposal of Fly Ash, they have approached the Southern Coalfields Ltd., Bilaspur to provide abandoned Mines for the purposes of filling of the Fly Ash. He stated that they are continuously approaching the Southern Coalfields Ltd., Bilaspur but they are not giving any reply. A copy of the letter has also been given to the Ministry of Coal, Govt. of India and also to the Madhya Pradesh Pollution Control Board. Sri Hemant Sharma, Director, MPPCL states that he will look into the matter and do the needful. The Committee further directs the Southern Coalfields Ltd., Bilaspur to look into the request of the Plant and if it is feasible and there is no impediment, they may allow the filling of their Fly Ash in the abandoned Mines. Let the Company may file the affidavit and the certificate in respect of the structural stability of the Fly Ash Dykes within one month.

Obra Thermal Power Plant, Obra: The representative of the Plant submitted an affidavit in pursuance of the direction given by the Committee in the earlier meeting. We have perused the affidavit. The manner in which the affidavit has been submitted is not acceptable. It is, in fact, not an affidavit and nothing has been stated properly, supported by any document, as required by the Committee. Let the Company may file a fresh affidavit stating that their Fly Ash Dykes are structurally stable and there is no possibility of any breach, and also annexing the certificate in respect of the structural stability of the Fly Ash Dykes from a third party technical agency. The representative submitted that the Plant is raising the height of the Fly Ash Dykes after taking the advice from the IIT Roorkee. Committee directs that after the completion of the work, they will further get their Dykes inspected by the third party technical agency, namely, NEERI to get the certificate that the Dyke is fully structurally stable and there is no possibility of any breach. He submitted that although, at present, the Fly Ash Dykes is not operational but the Plant has negotiated with the NHAI and also got allotment of abandoned mines from the concerned Authorities. After getting the N.O.C. from the Department, they will fill the Fly Ash in the abandoned mines. In this way, they will be able to dispose off sufficient quantity of the Fly Ash. Let the Company may file a fresh affidavit, supported by documents, stating their Fly Ash Dykes are structurally stable and technically sound and also submit reply of the issues raised in the agenda within one month.

Prayagraj Thermal Power Plant : The representative states that although they have two Fly Ash Dykes but since their disposal of Fly Ash is at present 100%, there is no occasion to store the Fly Ash. The Plant is not facing any problem with

regard to the Fly Ash Dyke. The Plant is, however, not operating in full capacity due to lack of coal in adequate quantity. Since their disposal of Fly Ash is to the nearby Industries, there may not be much problem of storage of fly ash in the Dykes.

Jaypee Bina Thermal Power Plant: The representative of the Company filed an affidavit. We have perused the affidavit. Let the Company may file a fresh affidavit within one month enclosing the certificate from the third party technical agency that their Fly Ash Dykes are structurally stable and there is no possibility of any breach. They may also submit the reply to each and every point of the agenda in the said affidavit.

Jaypee Nigrie Thermal Power Plant: The representative of the Company states that there is 100% disposal of the Fly Ash. There is no stock of Fly ash in the Dykes. Only bottom ash is filled in the Fly Ash Dykes. At present, there may be about 3.9 Lac MT bottom ash in the dykes. He stated that they have sought permission from the concerned Authority to fill up the old lying Ash for filling up in 04 abandoned Stone mines, which are also leased out to them for the quarry of stone. The total capacity of the mines is about 15 lac MT. On the permission being granted, they will be able to consume the entire stock of the bottom fly ash stored in the Fly Ash Dykes. Let the Company may file a fresh affidavit within one month enclosing the certificate from the third party technical agency that their Fly Ash Dykes are structurally stable and there is no possibility of any breach. They may also submit the reply to each and every point of the agenda in the said affidavit.

NTPC Meja : The representative of the Plant stated that their Plant has been commissioned in the year 2019. After commissioning of the Plant, the production of the Plant has not been properly carried on initially, for the shortage of the coal and at present due to technical fault. The production may likely to start very soon. Therefore, they are not facing any problem relating to the Fly Ash.

NTPC Dadri : The representative of the Plant states that there is no Fly Ash Dyke in their Plant. In the Plant premises, they have developed a huge Fly Ash Mount wherein they are directly sending dried fly ash from the Plant to the Fly Ash Mount through the pipeline. The permissible height of the Fly Ash Mount is 55 Meters. The Fly Ash Mount is full of trees which works as a binding of fly ash and avoids any damage during the rainy season. The creation of the Fly Ash Mount is a continuous process. There is no effect of Fly Ash effluents and affecting any air pollution and environment. On the contrary, due to heavy growth of plantation, which is about 2,00,000, over the Fly Ash Mount, the entire area is full of greenery and creates a better environment.”

9. In view of above, the Committee observed that the fly ash could be managed by developing a fly ash mount. The Committee has made following recommendations:

- “(1) All the Thermal Power Plants are directed to get their Fly Ash Dykes inspected by the third party agencies who are Technical expert to certify that their Fly Ash Dykes are technically sound and structurally sustainable and file an affidavit in this regard along with the certificate of the third party agencies.*
- (2) All the Thermal Power Plants may make a serious effort for 100% disposal of the currently generated Fly Ash and also for the disposal of the stocked Fly Ash.*
- (3) All the Thermal Power Plants may approach the District Administration with the request to allot abandoned mines (stone and coal) to them for the permission to fill the Fly Ash.*
- (4) Generation of Fly ash is a continuous process in all the Thermal Power Plants which is causing pollution of every day - Why the environment compensation on per day basis or month-to-month basis may not be imposed and recovered for the continuous pollution of air and water?*
- (5) There are number of Acts relating to air pollution and water pollution. The concerned authorities are directed to initiate the civil and criminal proceedings against these Thermal Power Plants who are causing air pollution and water pollution every day.*
- (6) U.P. Pollution Control Board under whose jurisdiction the Rihand Reservoir comes is directed to prepare a D.P.R. for de-silting of Rihand Reservoir for its restoration to its original form.*
- (7) All the Thermal Power Plants are being cautioned to take the necessary steps, as directed above, failing which they will be subject to the penalty/ environment compensation.”*

10. We are of the view that the recommendations on the subject of development of fly ash mounts and filling up of abandoned mines are issues which need to be examined by experts with regard to the safeguards necessary in the process, after studying the impact of environment. It is only after such a study that the development of mounts and filling up of abandoned mines can be undertaken. If there are pre-existing guidelines of MoEF&CC/CPCB on the subject, the same may be followed.

11. As regards desilting of Rihand reservoir, the same needs to be undertaken on scientific basis and cost recovered in the manner apportioned by CPCB. Apart from desilting, structural improvement of the dykes needs to be simultaneously taken up. CPCB may ensure that an action plan is prepared by the power plants whose dykes have breached. The issue of developing fly ash mounts and filling up of abandoned mines may also be got examined by the CPCB from its Expert Committee.
12. The CPCB has given report dated 26.09.2019 in response to order dated 19.07.2019. The CPCB has recommended payment of compensation of Rs. 155,42,85,300/- (One hundred fifty five crore forty two lac eighty five thousand three hundred). Since it is pointed out that vide order dated 04.11.2019 the Hon'ble Supreme Court has directed deferment of the proceedings, we defer the proceedings till the matter is decided by the Hon'ble Supreme Court.
13. We have also perused the report filed by the CPCB on 21.08.2019 with regard to compensation to be paid by the Essar Power in pursuance of order dated 19.07.2019. The assessed compensation may be recovered after following the due process of law.
14. We also find a letter from Justice Rajesh Kumar seeking extension of time. The report may be furnished as early as possible preferably by 31.12.2019. The structural steps for restoration of dykes may commence expeditiously, preferably by 31.12.2019 by Essar Power as well as NTPC.
15. The CPCB may give its reports on the subject of development of fly ash mounts and back filling of the abandoned mines and also cost

apportionment for desilting and restoration of Rihand reservoir preferably by 31.12.2019. CPCB will be at liberty to consult/associate any expert/institution for the purpose.

List for further consideration on 18.02.2020.


Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM



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