

Item No. 09

Court No. 2

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

Original Application No. 725/2022

Anurag Sharma

Applicant

Versus

State of Uttar Pradesh

Respondent

Date of hearing: 05.09.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None

Respondents: Mr. Gi. Gi. C. George, Advocate for state of U.P(through VC).
Mr. Alok Agarwal, Mr. Sanjeev Kumar Singh and Mr. Bhishm
Pratap Singh, Advocates for Respondent No. 2 LPGCL.
Ms. Aprajita Bhardwaj, Proxy Counsel for Mr. Naveen Kumar,
Advocate for MoEF & CC(through VC).
Mr. Pradeep Misra, Advocate for UPPCB (through VC).

ORDER

1. During the course of argument, learned Counsel appearing for Proponent drew our attention to various Notifications of Government pertaining to disposal of old fly ash including Guidelines of CPCB of 2019. The said documents clearly show that disposal of fly ash in agriculture land/area is restricted. Further, EC issued to Proponent in 2011 also prohibit disposal of fly ash in low lying area.

2. Learned Counsel contended that disposal of fly ash in low laying area is prohibited in EC but reclamation of low lying area by depositing or dumping fly ash is not prohibited. We do find any distinction in the two, since one is an act which is prohibited and reclamation is a consequence.

3. Be that at it may, the Regulatory authorities in report have said that alleged disposal of fly ash in low lying area could not be verified since the proponent did not provide information and record pertaining to such low lying area and in absence thereof, such areas could not be identified.

4. Learned Counsel for the proponent states that he has entire record in this regard and ready to furnish the same to Uttar Pradesh Pollution Control Board (hereinafter referred to as '**UPPCB**').

5. We accordingly, direct the Proponent to submit relevant documents, necessary for identification of low lying area wherein the fly ash has been disposed, as admitted by the Proponent, and UPPCB Officials shall verify the same and submit a factual report within three weeks thereafter.

6. We also find that test report of the contents of heavy metals etc. in fly ash on the part of UPPCB is not on record. It appears that authorities have not properly monitored parameters of contents of fly ash which are necessary for disposal activities on the part of Proponent.

7. Shri Pradeep Misra, learned Counsel appearing for UPPCB stated that he may be granted three weeks' time to get the fly ash test conducted and submit report. Let the above information be placed before Tribunal by way of an additional affidavit within one month.

8. We also find from record that by order dated 16.05.2024, a cost of Rs. 25,000/- was imposed on respondent 4 which has not been deposited. We are inclined to take action for non-compliance of Tribunal's order by initiating proceedings under Section 26 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') but on a

request made by Shri Pradeep Misra, we allow respondent 4 to deposit the cost within two weeks from today.

9. List on 14.10.2024.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

September 05, 2024
Original Application No. 725/2022
SN