

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI**

APPLICATION NO. 122 OF 2021 (SZ)

BETWEEN

R RAVIMARAN

... Applicant

And

UNION OF INDIA AND ORS.

... Respondents

**REPLY STATEMENT FILED ON BEHALF OF THE 4TH AND 5TH
RESPONDENT**

Dated at Chennai on this the 7th day of October, 2021.

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI**

APPLICATION NO.122 OF 2021 (SZ)

BETWEEN:


R.Ravimaran,
S/o. Ramachandran,
43, Beach road, Thazhankuppam,
Ennore, Chennai-600057

.. Applicant

AND

1. Union of India
Rep. by its Secretary
The Ministry of Environment, Forest & Climate Change
Jorbagh, New Delhi
2. Tamil Nadu State Coastal Zone Management Authority,
Rep. by its Director
Department of Environment
No.1, Jennis Road, Panagal Building,
Ground Floor, Saidapet, Chennai-600 015
3. The Public Works Department,
State of Tamil Nadu,
Rep. by its Secretary
St. George Fort, Chennai-600 009
4. Tamil Nadu Generation & Distribution Corporation (TANGEDCO)
Rep. by its Chairman cum Managing Director,
10th Floor, NPKRR Maaligai, 144, Anna Salai,
Chennai-600002
5. North Chennai Thermal Power Station (Stage – III)
Rep. by its Chief Engineer,
Athipattu, Chennai-600120,
Tiruvallur District.
6. Tamil Nadu Pollution Control Board,
Rep by its Member Secretary,
No.76, Mount Salai,
Chennai.


... Respondents


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REPLY STATEMENT FILED ON BEHALF OF THE 4th & 5th RESPONDENT

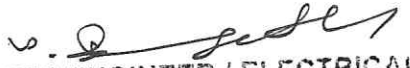
I, P.SHANMUGANATHAN, son of C.PALANISWAMY, aged about 59 years residing at Mullai Flats, 55/126, Pillaiyar Koil Street, Jafferkhanpet, Ashok Nagar, Chennai-600 083, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the Chief Engineer of Tamil Nadu Generation and Distribution Corporation (TANGEDCO), North Chennai Thermal Power Project, Stage-III (NCTPP-III) representing the 5th Respondent herein and as such I am well acquainted with the facts of the case from the available records. I am authorized to file this counter affidavit on behalf of the Chairman – cum – Managing Director, TANGEDCO, Respondent No.4 herein. I am filing this counter affidavit for myself and on behalf of Respondent No.4.
2. I state that the above application in O.A.No.122 of 2021 (SZ) has been filed by the applicant herein under Section 14, read with 18 (1) of the National Green Tribunal Act 2010 for the following relief:
 - a. *To direct Respondents No. 1 to 5 forthwith demolish the illegal structures constructed by the 4th and 5th respondents to carry pipelines to transport coal ash across the backwaters and main channel of the Kosasthalaiyar River.*
 - b. *To direct the 4th and 5th respondents to utilize the pipelines procured by them to replace the leaking, ageing pipelines carrying ash slurry from the 1st and 2nd phase Thermal plants so as to prevent further contamination of the environment.*
3. I humbly submit that I have read the contents of the above application and at the outset I deny all the averments contained in this Application except those that are specifically admitted therein. I am filing this Reply Statement in my official capacity on behalf of the 4th and 5th


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Respondent and reserve the right to file additional reply statement by TANGEDCO at a later stage.

4. Before traversing para wise contentions raised in the application, I respectfully submit that the above application itself is not maintainable at all as it is barred by limitation and this apart it is devoid of merits on both factual and legal aspects. I state that the applicant has no locus standi to file the Application and as such the same has been filed with vested interest and is abuse of process of law.
5. I humbly submit that the Tamil Nadu Electricity Board was formed on July 1, 1957 under section 54 of the Electricity (Supply) Act 1948 in the State of Tamil Nadu as a vertically integrated utility responsible for power generation, transmission and distribution. The electricity network has since been extended to all villages and towns throughout the State. TNEB was restructured on 01.11.2010 into TNEB Limited; Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) and Tamil Nadu Transmission Corporation Limited (TANTRANSCO).
6. I humbly submit that the 4th and 5th Respondent proposed to establish 1x800 MW, NCTPP Stage III Super Critical Thermal Power Plant which is only an expansion unit in the vacant land available within the existing North Chennai Thermal Power Station Complex at Ennore and Puzhuthivakkam Villages of Ponneri Taluk, Tiruvallur District.
7. I humbly submit that the on-going NCTPS Project Stage III project was conceived in 1989 itself as a Stage III project as the land had already been acquired for accommodating all the three stages of NCTPS and is developed to generate power using the existing features of NCTPS Stage I and Stage II within the industrial land of NCTPS complex, which is enclosed in a pucca compound wall constructed during 1990. The CMDA also declared the subject complex as "industrial land".
8. I further submit that based on the power demand and financial status of TNEB, these power plants are executed in a phased manner utilizing the



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public exchequer. The Stage I power plant of installed capacity of 3x210 MW is being operated from 1995 onwards and Stage II power plant of installed capacity of 2 X 600MW is generating power from 2014 onwards inside the NCTPS Complex.


9. I humbly submit that the on-going NCTPS Stage III Project is now being established to offset the power demand of Tamil Nadu using the existing facilities of NCTPS complex without acquisition of any other land from the public and the progress of work is in a good phase.
10. I humbly submit that the NCTPS Stage III project works are being executed through two EPC (Engineering, Procurement and Construction) Contractors M/s. BHEL, New Delhi, and M/s. BGR Energy System Limited, Chennai. They are engaging sub-contractors for procurement of construction materials, execution of works, etc.
11. I humbly submit that the public hearing meeting for the subject project was conducted on 05/03/2015 under the Chairmanship of the District Collector of Tiruvallur District along with the Public and Other Department officials. The proceedings of the public hearing were recorded.
12. I humbly submit that pursuant to the above, the 4th & 5th Respondent had applied for the grant of Environmental Clearance as mandated under Environmental Impact Assessment (EIA) Notification 2006 to the Ministry of Environment, Forest and Climate Change, the 1st Respondent herein for the proposed project.
13. I humbly submit that Project presentation was made by TNEB (TANGEDCO) in the TNSCZMA on 19.5.2015, wherein under the heading of Fly Ash Management, it had been informed that there will be no ash disposal in sea/river and 100% dry fly ash collection in silos of one day (24 Hours) ash generation capacity of the proposed plant and also that bottom ash would be disposed through dry bottom ash handling system and in case of emergency, bottom ash will be disposed of in the Ash Dyke of NCTPS.


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- 14.** I further humbly submit that the 2nd Respondent, Director of Environment, Chennai, has sent the copy of the proposal with the reports, details, HTL map and Minutes of the 83rd meeting of TNSCZMA held on 19.05.2015. In line with the recommendations of TNSCZMA, Government of Tamil Nadu recommended the proposal of TANGEDCO to the Chairman/National CZMA and MOEF &CC. In the Lr. No. 10173/EC.3/2015-1 dated 16.06.2015 of the Principal Secretary to Government also, it has been mentioned that TANGEDCO has informed that the proposed project would be taken within the existing NCTPS complex as an expansion unit.
- 15.** I further humbly submit that Project presentation and Additional Information was made by TNEB (TANGEDCO) before the EAC of GOI on 27.11.2015. Under Sl. no. II - Revised Layout of NCTPS complex prepared by the Institute of Remote Sensing, Anna University, Chennai various units viz., Stage I (3x210 MW), Stage II (2x600 MW) and facilities viz., Coal conveyor, Cooling water inlet/outlet and Bottom Ash disposal line to the Ash Dyke of NCTPS along with the Demarcation of HTL/LTL and CRZ Delineation for NCTPS Stage III (1x800 MW) at Ennore Village, Ponneri Taluk, Tiruvallur District are depicted and under Sl. No. X - Explore various avenues for utilisation of bottom ash, wherein it has been mentioned that the bottom ash of the proposed plant would be collected through dry bottom handling system and used for brick manufacturing and road laying purposes and excess, if any, disposed in to the existing ash dyke of NCTPS. From the presentations submitted, I state that ash pipe line for the Project using the ash dyke of NCTPS has been furnished to MOEF & CC.
- 16.** I humbly submit that Rapid Environment Impact Assessment (EIA) study for the Project was made by NABET accredited Environment Consultant, M/s. Ramky Enviro Engineers Ltd., Hyderabad, and submitted by TANGEDCO to the MOEF & CC, GOI for obtaining EC and CRZ clearances.


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17. I humbly submit that considering all the above including the Environment Impact Assessment report, the 1st Respondent had issued Environmental Clearance and CRZ Clearance for the above said project on 20.01.2016 with various conditions.
18. I further humbly submit from the above, it could be seen that the power plant (NCTPS Stage III Project Plant) is developed to generate power using the existing facilities of NCTPS Stage I and II including Ash Dyke of NCTPS and after securing all clearance and in strict compliance with rules and regulations. It is necessary to point out that in the EC itself, it has been mentioned as "Expansion by addition of 1x 800 MW (Stage III) North Chennai TPP".
19. I humbly submit that a complete set of the above documents were submitted to the Regional Office of MoEF & CC for monitoring. The scope/extent of ash disposal work envisaged has been furnished in the EIA report of the Project and there is no concealment of factual data.
20. I further submit that there is no deviation/alteration from those details already submitted to the MoEF & CC for the proposed project with respect to ash transportation system pipelines also.
21. I humbly submit that pursuant to the above Clearances, TANGEDCO had also informed the public through Paper Publications dated 03.02.2016 in English and Tamil and the local authorities concerned that the Clearances were granted for the proposed project.
22. I humbly submit that TANGEDCO also obtained Consent to Establishment from Tamil Nadu Pollution Control Board with various conditions vide Consent Order No. 170124499798 dated 13.04.2017 under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 and Consent Order No. 170124499798 dated 13.04.2017 under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended in 1987.


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- 23.** I humbly submit that as all the statutory clearances were obtained by the TANGEDCO as mandated under Environmental Laws and are in the process of establishment of the proposed project.
- 24.** I humbly submit that as the applicant is aware of the entire proceedings and as the cause of action arose in the year January 2016 itself, the Applicant with an ulterior motive has filed this present application under Section 14 of the NGT Act on 30.5.2021 before this Hon'ble Tribunal with an inordinate delay and the Applicant has preferred present application after expiry of its period of limitation and as such the present Application is liable to be dismissed. The Relevant provisions are extracted hereunder:

Section 18 of NGT Act, 2010 reads as

"Application or appeal to Tribunal


(1) Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.

.....
"

Section 14 of the NGT Act, 2010 reads as

"Tribunal to settle disputes

- 1. The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.*


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2. *The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.*
3. *No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:*

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days."

- 25.** I humbly submit that apart from the above provisions of NGT Act, it is just and necessary to read Section 5 of the Limitation Act, 1963:

"Extension of prescribed period in certain cases: Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be, admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period."

- 26.** It is apparent from the above provisions of law that an application has to be filed within the period of limitation. According to the NGT Act, an application has to be filed before the Hon'ble Tribunal within 6 months from the date of cause of action first arose. But the applicant with an ulterior motive wants to unsettle proceedings which have been issued in accordance with law. I state that the very fact that despite being aware of the entire proceedings, the applicant has approached this Hon'ble Tribunal after a period of five years from the date of cause of action first arose (i.e.,) on 20.01.2016 and the same would evidence that the applicant is abusing the process of law for vested interests. I state that the above application has to be rejected at the threshold itself, in the interest of justice.


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27. I humbly submit that instead of challenging the Environmental Clearance and CRZ Clearance of the 1st Respondent or Consent Orders of the 6th Respondent, Tamil Nadu Pollution Control Board, as the period of limitation for statutory appeal has expired as per Section 16 of the NGT Act, and in order to circumvent the settled provision of law, the Applicant with a motive and vested interest has created a new cause of action in the year May 2021 instead of January 2016. I humbly submit that even in the application in Limitation column, the applicant stated as follows:


"The present application is within the period of litigation prescribed under Section 14 of the National Green Tribunal Act, 2010".

28. I humbly submit that it is very clear from the above act of the applicant which is neither admissible in law nor is legal and that the present application is filed for vested interest and no environmental interest is shown by the application herein. Hence the present application is liable to be dismissed with a huge cost.

29. I humbly submit that this apart, this Respondent has obtained all the necessary clearances from the statutory authorities for the establishment of the present project as mandated under law. There is neither any Environmental Violation nor any statutory violation on the part of this Respondent till date.


30. I humbly submit that after knowing of all the above, the applicant has approached this Hon'ble Tribunal with vested interest and there is no public or Environment interest involved in the present issue.

31. It is pertinent to note that the present application is scrupulously time barred application and the representation dated 30.05.2021 has been made to create a cause of action which is otherwise not permissible.



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32. With regard to the Application, it is submitted that:-

- a. The EC and CRZ clearance for the Project has been issued by the MoEF & CC after considering the documents, clarifications and explanations furnished. The requirement/purpose for laying of pipeline for discharge/disposal of ash slurry across the Kosasthalaiyar River has been shown in the CRZ map of Anna University/ Chennai, which is also mentioned in the Rapid EIA report.
- b. The CRZ map of Institute of Remote Sensing, Anna University/ Chennai - 'Demarcation of HTL/LTL and CRZ delineation for NCTPP Stage-III (1 X 800 MW) Project' - shows the Ash Line corridor of NCTPS Stage 1, 2 and 3 crossing the water bodies coming within CRZ I B zone Buckingham Canal and Kosasthalaiyar River up to the existing Ash Dyke of NCTPS for the disposal of ash through pipelines as being done at present in the other two phases of NCTPS Stage 1 and 2.
- c. The Rapid EIA report and the aforesaid CRZ map also shows and mentions about the place allotted for the existing Ash Pond of NCTPS and the disposal of ash through pipeline as being done at present for the other two existing Power Plants. It has also been mentioned under the Rapid EIA report that it is proposed to utilize the Ash Dyke of NCTPS for bottom ash disposal in case of emergency.
- d. As the CRZ map of Institute of Remote Sensing, Anna University/ Chennai and the Rapid EIA report were submitted to the State level CZMA and also to the MOEF & CC for issuance of the EC and CRZ clearance, the work of laying of pipeline for discharge of ash slurry across the Buckingham Canal and Kosasthalaiyar River has been very well depicted while applying for the EC and CRZ clearance.


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- e. In the EC clearance, under 7 B. General Conditions – Sl. No. (viii), it has been stated that “Utilization of 100% fly ash generated shall be made from 4th year of operation” only. In this connection, as mentioned in the Fly Ash Utilization of the Rapid EIA report, Fly Ash utilisation will be met at 50% within target date of one year from the date of commissioning, 70% within target date of two years from the date of commissioning, 90% within target date of three years from the date of commissioning and 100% within target date of four years from the date of commissioning. From the above Rapid EIA report, it could be seen that for disposal of Fly Ash during the initial years of operation, Fly ash disposal system is required for wet disposal to ash pond in slurry form, for which pipeline is essentially required.
- f. EC mentions that Ash pond water will be collected, treated and reused for slurry making. In this connection, I humbly submit that a Recovery Water Pump House located near Ash Dyke of NCTPS with 1 number recovery water pipe line will be established. The decanted ash water is collected in the Recovery Water Pump House and pumped into the ash water Sump located inside the power plant through recovery water pipe line of length about 2.8 km as shown in the EIA report and CRZ delineation map of Anna University referred earlier.
- g. NOC from the 3rd Respondent, Tamil Nadu State PWD has been obtained and a Lease agreement executed for construction of bridge for crossing the water bodies coming within CRZ I B zone Buckingham Canal and Kosasthalaiyar River up to the existing Ash Dyke of NCTPS for the disposal of the ash.
- h. Moreover, as per MoEF & CC Notification No.19-31/2015-IA-III, GOI IA-III Division Circular dt.27.02.2015, in CRZ areas, permissible activities, which are integral and ancillary to the execution of approved projects including that of construction of temporary bridges over creeks or backwaters, and temporary make-shift infrastructure/



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construction required for completing the main permitted activity will not be a deviation from the conditions of approval as they are minor in nature and without damaging the environment.

- i. The temporary approach made with earth/other material will also be removed as per PWD lease agreement after construction of the bridge for laying of ash slurry pipeline and hence there is no encroachment and reclamation of Kosasthalaiyar and Flood plains. And no damage caused to the environment on account of laying down of the pipeline for disposal of ash from the plant to the existing Ash Dyke of NCTPS.


33. With respect to para 7 of the Application, it is submitted that :

- a. The proposed pipe carrying bridge is located by the side of the existing Ash Bridge constructed by NCTPS Stage I Project for crossing the North Buckingham Canal and adjoining back waters near the entrance gate of NCTPS Stage II plant.
- b. 'No Objection Certificate' from the 3rd Respondent Tamil Nadu State PWD has been obtained and Lease agreement executed for construction of pipe carrying bridge across the Buckingham Canal and back waters of Ennore Creek (Kosasthalaiyar River) and after satisfying the norms of Inland Waterways Authority Limited for navigation, permission was issued by the 3rd Respondent, Tamil Nadu State PWD for crossing the Buckingham Canal.
- c. All the structural and hydraulic parameters of the proposed bridge has been adopted similar to the existing bridge and as the backwater has no influence with the navigation at the said location, permission was issued by the 3rd Respondent, Tamil Nadu State PWD for crossing the Ennore Creek back waters (Kosasthalaiyar River).
- d. Accordingly, NOC was issued by the 3rd Respondent, Tamil Nadu State PWD, for the Project for construction of pipe carrying bridge


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across the Buckingham Canal and back waters of Ennore Creek (Kosasthalaiyar River) and there is no illegal encroachment nor reclamation of Kosasthalaiyar River.


- 34.** With respect to para 8, 9 and 10 of the Application, it is submitted that:
- a. Project presentation was made by TNEB (TANGEDCO) in the State level CZMA on 19.05.2015 wherein under the heading "Fly Ash Management", among other things, it had been informed that bottom ash would be disposed through dry bottom handling system and in case of emergency, bottom ash will be disposed in the Ash Dyke of NCTPS.
 - b. The 2nd Respondent Director of Environment, Chennai, has sent the copy of the proposal with the reports, details, HTL map and minutes of the 83rd meeting of TNSCZMA held on 19.05.2015 and in line with the recommendations of TNSCZMA, Government of Tamil Nadu recommended the proposal of TANGEDCO to the Chairman/National CZMA and MOEF &CC, vide Lr.No.10173/EC.3/ 2015-1 dated 16.06.2015 of the Principal Secretary to Government, Environment & Forests / Gov.T.N.
 - c. Project presentation and Additional Information was made by TNEB (TANGEDCO) before the EAC of GOI on 27/11/2015. Under Sl. no. II- Revised Layout of NCTPS complex prepared by the Institute of Remote Sensing, Anna University, Chennai various units viz. Stage I (3x210 MW), Stage II (2x600 MW) and facilities viz., Coal conveyor, Cooling water inlet/outlet and Bottom Ash disposal line to Ash Dyke of NCTPS along with the Demarcation of HTL/LTL and CRZ Delineation for NCTPS Stage III (1x800 MW) at Ennore Village, Ponneri Taluk, Tiruvallur District have been depicted and under Sl. no. X- Explore various avenues for utilisation of bottom ash, wherein it has been mentioned that the bottom ash of the proposed plant will be collected through dry bottom handling system and used for brick


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manufacturing and road laying purposes and excess if any disposed through existing ash dyke of NCTPS.


- d. The exhaustive Rapid Environment Impact Assessment (EIA) study for the Project made by NABET accredited Environment Consultant, M/s. Ramky Enviro Engineers Ltd., Hyderabad, contains information, details, records and documents and submitted by TANGEDCO to the MOEF&CC, GOI.
- e. The Rapid EIA report shows and mentions about the place allotted for the existing Ash Pond of NCTPS and disposal of ash through pipeline as being done at present for the other two existing Power Plants.
- f. As mentioned in the Fly Ash Utilization of the Rapid EIA report, Fly Ash utilisation will be met at 50% within target date of one year from the date of commissioning, 70% within target date of two years from the date of commissioning, 90% within target date of three years from the date of commissioning and 100% within target date of four years from the date of commissioning. From the above Rapid EIA report, it could be seen that for disposal of Fly Ash during initial years of operation, Fly ash disposal system is required for wet disposal to ash pond in slurry form for which pipeline is essentially required. The Rapid EIA report mentions that Fly ash disposal system will also contain a provision for wet disposal to ash pond in slurry form.

From the foregoing, I humbly submit that the EIA report is not silent on the pipelines and all the project details had been disclosed to the MOEF & CC and discussed in the public hearing held on 05.03.2015 and hence the averment of the Applicant that EIA report is silent on the pipelines and the clearance for the power plant has been obtained suppressing the need to build ash discharge pipelines over the water bodies and the construction of ash pipelines is illegal is baseless.


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35. With respect to para 13 of the Application, it is submitted that:-

- a. Under the EIA report - it shows the land requirement for the power block of the project within the NCTPS complex. The CRZ map of Institute of Remote Sensing, Anna University, Chennai, shows the Ash line of NCTPS 1, 2, and 3 and Ash Dyke of NCTPS. Since the Ash pipes of NCTPP Stage-III project are to be routed along the existing Ash pipe lines of NCTPS 1 and 2 and connected to existing Ash Dyke of NCTPS no separate land requirement arises and hence separate land allocation was not made in the Rapid EIA report.
- b. Under the TOR - Revised Layout of NCTPS complex prepared by the Institute of Remote Sensing, Anna University, Chennai depicting various units viz. Stage I (3x210 MW), Stage II (2x600 MW) and facilities viz. coal conveyor, cooling water inlet/outlet and Bottom Ash disposal line to Ash Dyke of NCTPS along with the Demarcation of HTL/LTL and CRZ Delineation for NCTPS Stage III (1x800 MW) were submitted while applying for EC and CRZ clearance for the Project, which shows Ash line of NCTPS Stage ' 1, 2 and 3' and Ash Dyke of NCTPS.
- c. Under the TOR it is stated that - "No fill material required as the proposed site is almost plain"- With reference to this it is submitted that this detail pertains to the proposed Power block of the Project within NCTPS Stage I and II complex.
- d. It is submitted that 100 % utilization of fly ash in dry form will be achieved after 4th year of operation of the Project and this has also been mentioned in Sl. No. viii- B - General Conditions of the EC and CRZ clearance of the Project and hence till completion of 4th year of operation of the Project, disposal of fly ash including bottom ash has to be disposed to the existing Ash Dyke of NCTPS through pipelines only for which the proposed construction of ash pipelines is required.
- e. In this connection, it is also submitted that it has been mentioned in the Rapid EIA report that Fly ash disposal system will also contain a


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provision for wet disposal to ash pond in slurry form (to the existing Ash Dyke of NCTPS for disposal during initial years of operation of the plant and for disposal of fly ash in the time of emergency if the dry collection system fails due to some issues since the plant has to be operated for 24 hours to maintain the power grid stability).


- f. It is further submitted that the capacity of fly ash storage silos is of one day capacity (24 Hours) only and during contingency of truckers strike, etc. disposal of fly ash including bottom ash has to be disposed to the existing Ash Dyke of NCTPS through pipelines only for which the proposed construction of ash pipelines is required.
- g. Under TOR, it is stated that "No water body/nallah are passing across the site" - With reference to this I humbly submit that this detail pertains to the proposed Power block of the Project within NCTPS complex wherein the NCTPP Stage III(1x800 MW) Expansion unit is under execution and as such no water body/ nallah is passing across the site.
- h. Under TOR it is stated that - "The proposed site is 500 m away from the High Tide Line Sea and 100 m away from the canal" - With reference to this I humbly submit that the Power Plant boundary of NCTPS Stage III Project is 500 m away from the High Tide Line Sea and 100 m away from the Buckingham canal and it is maintained. The ash pipe line corridor of the project along with NCTPS Stage-I and II has been shown as 'Ash line of NCTPS Stage 1, 2, & 3' along with 'Ash Dyke of NCTPS' with CRZ delineation for the Project prepared by Institute of Remote Sensing, Anna University, Chennai, (map showing the Revised Layout of NCTPS complex is enclosed) and submitted to MoEF & CC for obtaining EC and CRZ clearances.


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36. With respect to para 14 of the Application, I humbly submit the following:

- a. The Applicant has enclosed orders of the 6th Respondent Tamil Nadu Pollution Control Board viz. Consent to Establish under Air and Water Act as Annexure-5 which are not related to this NCTPS Stage III Project but pertains to NCTPS Stage II Project.
- b. However, I humbly submit that all the General conditions mentioned in the Consent to Establish under Air Act issued by the 6th Respondent Tamil Nadu Pollution Control Board for the Project with respect to Fugitive emission of Fly Ash (dry or wet) will be followed and monitored and it is also submitted that no ash will be disposed of in low lying areas.
- c. I further submit that the fly ash does not come under "Trade effluent" coming under the Consent to Establish under Water Act of the 6th Respondent Tamil Nadu Pollution Control Board as mentioned by the Applicant since no ash disposal in sea/river as submitted during the Project presentation made by TNEB (TANGEDCO) in the State level CZMA on 19/5/2015 under the heading Fly Ash Management and hence the averment by the Applicant that on-going ash slurry pipeline construction is illegal under Consent to Establish under Air and Water Act of the 6th Respondent Tamil Nadu Pollution Control Board is all false and denied.

37. With respect to para 15 of the Application, I humbly submit that all the structural and hydraulic parameters of the proposed bridge has been adopted similar to the existing bridge carrying ash disposal pipelines of NCTPS Stage I and NCTPS Stage II and as the backwater has no influence with the navigation at the said location, permission was issued by the 3rd Respondent Tamil Nadu State PWD for crossing the Ennore Creek back waters (Kosasthalaiyar River) and 'No Objection Certificate'


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has been issued for the Project for construction of pipe carrying bridge across the back waters of Ennore creek (Kosasthalaiyar River) and hence the ongoing activities do not alter the drainage and natural flow of water and are not unlicensed and not illegal.


- 38.** With respect to para 16 of the Application, I humbly submit that as the parameters of the existing bridge such as clear span between piers/pile caps, height of the soffit of the deck slab from water level, etc., are maintained in the proposed ash slurry pipe carrying bridge over the back waters of Ennore creek as stated in the "NOC" issued by the 3rd Respondent Tamil Nadu State PWD and as it has been mentioned in the above NOC that backwaters has no influence on navigation at the said location there will not be constriction in the water way and hence the construction of the proposed bridge will not affect the fishing activities. Therefore, the question of hindering the livelihood of the fishermen will never arise. Endowment of Fisherman welfare fund of about Rs.200 lakhs under CSR scheme has also been made as mentioned in the Rapid EIA report and this will be provided.
- 39.** With respect to para 17 of the Application, I humbly submit that 'No Objection Certificate' has been issued by the 3rd Respondent, Tamil Nadu State PWD for the construction of pipe carrying bridge across the back waters of Ennore Creek (Kosasthalaiyar River), only after verifying all the structural and hydraulic parameters if they would alter drainage, disrupt water flow and degrade the water quality, from the drawings submitted by TANGEDCO. The construction activities are being carried out without any deviation from the approved drawing and hence, the on-going activities are not in violation of the conditions imposed in the NOC of the 3rd Respondent. Moreover, I submit that basalt lined MS steel pipe lines are now proposed for the project and there will not be any leakage of pipes and hence there is no question of degrading the water quality. The brick bat construction debris used to facilitate construction of piles and bridge also will not degrade the water quality and these materials will



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also be removed completely after completion of construction activity which will be ensured by the 3rd Respondent as stated in the NOC and Lease agreement.

- 40.** With respect to para 19, it is submitted that there was no work in the said location of the bridge over back waters of Ennore creek since 05.03.2021 and hence the statement of the applicant that construction was continued during lock down period is baseless.
- 41.** With respect to the report of the Joint Committee, it is submitted that the finding of the committee that CRZ clearance was not obtained for the laying of pipelines for the transport of ash slurry is erroneous and unsustainable for the reason that the said construction of the pipeline is an allied activity related to the establishment of the approved NCTPS – Stage III project, for which the EC and CRZ clearances and approvals have already been accorded. In reference to the same, it is submitted that the MOEF vide Notification No. No.19-31/2015-IA-III dated 27.02.2015, has observed that activities which are allied to the establishment of the approved project **including the construction of temporary bridges etc, will not amount to deviation from clearance that was granted.** Hence, it is submitted that the said construction of the pipeline is well within the permissible norm.
- 42.** It is submitted that since the Committee has recommended to resume the activity only after obtaining amendment to the existing CRZ clearance from a MOEF&CC, further action will be taken only after requesting a necessary clarification from MOEF in this regard and ensuring the amendment to the EC if necessary.
- 43.** With regard to para 4 and 5 of facts in brief of the application, the statement of the Chief Engineer of NCTPS-I of the 4th Respondent on the status of Ash Slurry Disposal Lines (ASDL) of NCTPS-I are as follows:


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a. Ash Slurry Disposal Line No. :1

For line No.1 entire length of 5129 meters of Ash Slurry Disposal Line has been erected in Aug 2020 (100% Completed).


b. Ash slurry disposal Line No. : 2 & 3

For the procurement of new cast basalt pipes purchase order (P.O) has been placed on M/s Turbo Engineers, Coimbatore for a length of 10,452 meters for a value of Rs.8.36 Crores with a delivery period of 10 months. About 7392 metres (70%) of new pipe Lines have been supplied and the balance quantity was delayed due to Covid-19 which came in to effect from March 2020. Line No 3 (Total length 4942 metres) pipe has been replaced with new pipes from ash dyke to NCTPS gate for about 3892 metres out of 4942 metres (78.7 % completed). Line No.2 (Total length 5511 metres) worn out old pipes dismantling works in progress. Replacement of pipes with the available quantity 3500 metres will be taken up shortly.

Meantime, the suppliers, M/s Turbo Engineers in letters dated 27.4.2021 and 10.06.2021 have informed their inability to supply the balance quantity (30%) due to Covid-19 second wave & huge raw material cost escalation. However, action is being taken to complete the work on emergency basis.

c. Ash slurry disposal line No.:4

As for the procurement of new cast basalt pipes for a length of 4944 metres for a value of Rs.4.32 Crores, the tender has been lodged due to non-acceptance of validity by the bidders, exorbitant steel price hike and non acceptance of LD terms of TANGEDCO. Hence, fresh proposal for administrative approval was sent and the same has been accorded by TANGEDCO Head quarters on 07.05.2021. Procurement action is under process. However, as a contingency measure the worn out pipes


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are being replaced with the Pipes available. After receipt of new pipes, the work is expected to commence in Dec -2021.


d. Ash Slurry Disposal Line No.: 5

The entire line has been replaced to a length of 5599 meters in June 2018 (100% completed) and leakages, if any noticed, are attended immediately.

- 44.** I humbly submit that the Applicant with an ill intention to stall the major project of TANGEDCO, the present application has been filed and the same is an abuse of process of law. In any case, the public interest is more important than the private vested interest of certain individuals.
- 45.** I state that the ash pipeline is an incidental / ancillary activity necessary for the operation of the thermal power plant and the same is permissible under the CRZ areas as per the notification of the MoEF and CRZ clearance has been issued for the project.
- 46.** I submit that the project is an approved project and there is no deviation and as there is no deviation from the approved project the erection of pipelines is not an illegal act. I further submit that there is no violation and there is no construction of illegal structures to carry pipelines to transport coal ash across the backwaters and main channel of the Kosasthalaiyar River.

Further, I humbly submit that this Hon'ble Tribunal may be pleased to dismiss the above application on the point of limitation as it is scrupulously barred by limitation and also as devoid of merits and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in circumstance of the case and thus render justice.


Dated at Chennai on this 7th day of October, 2021.


5th RESPONDENT
& for 4th RESPONDENT
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VERIFICATION

P.SHANMUGANATHAN, son of C.PALANISWAMY, aged about 59 years residing at Mullai Flats, 55/126, Pillaiyar Koil Street, Jafferkhanpet, Ashok Nagar, Chennai-600 083, do hereby verify that the contents of paras 1 to 46 are true to the best of my knowledge and I have not suppressed any material fact.

Verified at Chennai on this 7th day of October,2021.


5th RESPONDENT
& for 4th RESPONDENT
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