

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ), SITTING AT  
CHENNAI**

**Appeal No. 14/2020**

**BETWEEN:**

Yelahanka Puttenahalli Lake  
and Bird Conservation Trust (Regd)

... APPELLANT

**AND**

Ministry of Environment & Forest and  
Ors

.... RESPONDENT

**INDEX**

<b><u>SL</u> <u>No.</u></b>	<b><u>Particulars</u></b>	<b><u>Page</u> <u>No.</u></b>
1.	Statement of Objections to the IA filed by the Appellant seeking Injunction against the construction of the power plant by the Respondent No.4 and seeking the stay/suspension of the Environment Clearance No. SEIAA 20 Ind 2014 dated 01/09/2015	1-17
2.	<b>Annexure R 25-</b> A copy of the pictures of the plant taken on 03/10/2020, immediately after the accident, just outside the gas turbine enclosure.	18-21
3.	<b>Annexure R 26-</b> A copy of the Statement issued by the Respondent No.4.	21-22

Place: Chennai

Date: 19/10/2020

  
**AJAY J. MANDALIKE**  
**KAR 1580/2007**  
Advocate for the Respondent No.4

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ), SITTING AT  
CHENNAI

I.A. No. \_\_\_/2020

In

Appeal No. 14/2020

**BETWEEN:**

Yelahanka Puttenahalli Lake  
and Bird Conservation Trust (Regd) ...APPLICANT/APELLANT

**AND**

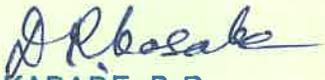
Ministry of Environment & Forest  
and Ors. ..RESPONDENTS/RESPONDENTS

**STATEMENT OF OBJECTIONS TO THE IAFILED BY THE  
APPELLANT SEEKING INJUNCTION AGAINST THE  
CONSTRUCTION OF THE POWER PLANT BY THE RESPONDENT  
NO.4 AND SEEKING THE STAY/SUSPENSION OF THE  
ENVIRONMENT CLEARANCE NO. SEIAA 20 IND 2014 DATED  
01/09/2015**

I, Mr. D.R.Kabade, S/o R.Y Kabade, aged 50 years, working as Assistant General Manager (Law), Office of the Head (Legal Services) and authorised signatory of Karnataka Power Corporation Limited, having office at Shakthi Bhavan, Race Course Road, Bangalore- 560 001, do swear and state on oath as under:

1. I am the Assistant General Manager (Law) of Karnataka Power Corporation Ltd., the 4<sup>th</sup> Respondent in the present proceedings, and as such I am well aware of the facts of the case and competent to swear to this affidavit.



  
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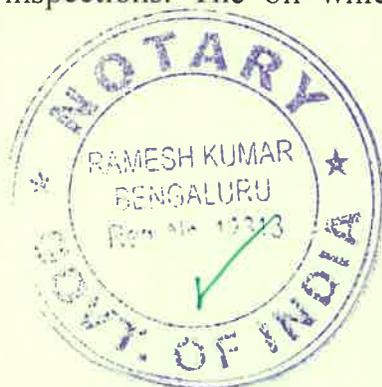
2. It is prayed that the Counter Statement filed by the Respondent No.4 be read as part and parcel of this Statement of Objections for the sake of brevity. No averment in the Application under reply should be deemed to be admitted unless specifically admitted to herein.
3. Before proceeding with the reply, it is submitted that the present application is *per se* not maintainable as an interim application in Appeal No. 14/2020. The “blast” alleged by the Appellant, which is contested by the Respondent as elaborated hereinbelow, and the surrounding facts are in no way connected to the issues raised in Appeal No. 14/2020. The primary issue arising in the main appeal is whether Respondent No.4’s project adversely impacts the bio-diversity of the Puttenahalli and Yelahanka lake. The Appellant, in a feeble attempt to overcome the fact that the main appeal is hopelessly barred by limitation, is seeking to conflate the issue in the appeal with a recent fire mishap, whose impact is limited to the area within the gas turbine enclosure. The answering Respondent asserts that the mishap in no way necessitates a stay on the Clearance granted to the answering Respondent (as early as in September 2015) in the present proceedings or otherwise. Nonetheless it is submitted that the alleged blast can, at best, only constitute an entirely different cause of action, in respect of which only a fresh appeal/application can lie. On ground of misjoinder of causes of action alone, this application is liable to be dismissed.
4. At the very outset, the Respondent No.4 would like to state that there has been no “blast” as claimed by the Applicant herein, that has taken place in the plant of the Respondent No.4. The gas turbine was being



  
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commissioned jointly by the employees of KPCL, BHEL and GE. At this time there was a fire accident that took place inside the enclosure of the Gas Turbine. There has been no damage to any property at all except inside the gas turbine closure where the fire accident happened. In fact, even inside the gas turbine enclosure, it is only the flexibles, gaskets and pipes which got damaged due to the fire and the same was doused in a very short period of time. There has been no damage, whatsoever outside the gas turbine enclosure. The pictures taken on 03/10/2020, immediately after the accident, just outside the gas turbine enclosure are produced herewith as *Annexure R25*. The pictures clearly show that there has been no fire impact even 5 feet outside the Gas Turbine enclosure area. No other areas in the plant have been affected. The cause of the mishap can be ascertained only after carrying out the root cause analysis, which is currently being done by a joint team of Central Electricity Authority (“CEA”) and BHEL.

5. It is submitted that 15 of the employees KPCL, BHEL and GE have sustained injuries and of which 3 employees have succumbed to the injuries. These were employees of the Respondent No. 4, employees of BHEL and GE who were commissioning Gas Turbine at that point of time. The preliminary examinations indicate that the fire accident could possibly be because of lube oil leakage in the gas tunnel area which has high temperature range and this oil could have caught fire. The oil had escaped the tunnel area and flowed down to the gas turbine enclosure which is a closed structure but has gates on one side for inspections. The oil which escaped the gas tunnel area having

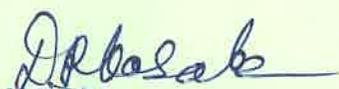


  
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flown down to this enclosure with fire had caused strong flame due to a higher quantum of oil. This triggered the fire detection and auto fire quenching system and the fire was put off in the gas tunnel area. Unfortunately, the oil which escaped down to the gas turbine enclosure which is normally not a hot area but an enclosure where more oil got collected was out of the reach of the auto fire quenching system. Possibly due to higher quantity of oil getting collected at the enclosure, the fire and hot air had suddenly escaped the gas turbine enclosure, which was closed with strong gates on either side, suddenly, with a kind of force which opened the gates due to high pressure and temperature inside the enclosure.

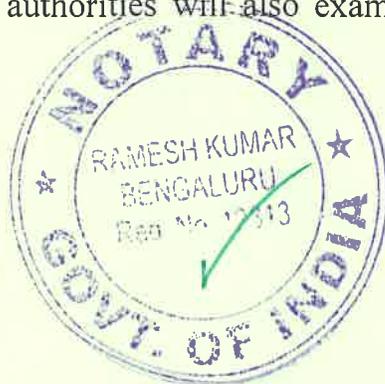
6. It is likely that the injured employees, without suspecting the lube oil leakage, which is a rare event, might have gathered around the gas turbine enclosure for detecting the fire spillage and dousing the fire in the gas turbine area. In the process, they could have gotten close to the gas turbine enclosure, the gates of which probably opened at that time with sudden force and thus they got affected by the flame escaping suddenly. Had these employees remained at a distance of 20 feet or more for about 10 minutes, they all would have been at a safe distance and the escaping flame and hot air would have been doused using the fire tenders of the plant and none of employees would have sustained any injuries at all. The preliminary investigations indicate that it is freak fire accident due to oil leakage and it is by chance that the employees got closer to it. However, the actual cause and even this sequence of events can only be confirmed only after the route cause



  
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analysis is completed by the subject matter experts and the cross faculty team set up for the purpose.

7. It is submitted that there has been no “blast” or major fire hazard as claimed by the newspaper reports and it could be a freak fire mishap due to oil leakage. The Appellant Trust has contacted most of the media houses through phone calls and have caused the word ‘blast’ to be used in Media reports without any basis. It is submitted that the Appellant Trust must be held accountable for the blatant lies being spread by them and cannot be allowed to mislead this Tribunal as well as the public.
8. It is submitted that the newspaper reports have been made without any inquiry and without ascertaining the true facts of the incident. It is submitted that the same are false, un-verified and has been highly sensationalised and the practice of publishing such reports without proper enquiry should be denounced by this Hon’ble Tribunal as they are likely to spread unnecessary panic and hysteria. The Respondent No.4 has issued a statement regarding the incident and the same is produced herewith as *Annexure R26*.
9. I submit that a root cause analysis is presently being conducted by the Cross Faculty Team consisting of former member of CEA, experts from GE, BHEL and KPCL. The matter is also being looked into by the Respondent No.4 itself. In addition to the same, the statutory and specialist authorities like the Electrical Inspectorate and Factories and Boilers Department are going to look into the matter in detail. These statutory authorities will also examine the root cause analysis report



  
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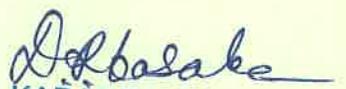
and give further directions about precautions to be taken and the same will be binding on the Respondent. The Appellant should not pre-empt the technical team having the required expertise from doing its duty to find the cause of the accident.

**Parawise Traversal:**

10. **Re Para 1:** It is submitted that there is no situation, as claimed by the Appellant which has given rise to any substantial questions relating to the environment as referred to in Section 14 of the National Green Tribunal Act, 2020 and which requires to be adjudicated by this Hon'ble Tribunal. It is false to state that there has been any damage caused to the environment by the activities of the answering Respondent or that there is a requirement of restitution of the environment, as contemplated under section 15 of the National Green Tribunal Act. It is false to state that the Environment Clearance dated 1/9/2015 has been granted to the Respondent No. 4 dehors the applicable notifications and statutory provisions as contemplated under Section 16 of the Act.

11. **Re Para 2& 3:** As stated above, it is false to state that the Environmental Clearance granted by the SEIAA is contrary to the provisions of the Environmental Impact Assessment Notification, 2006. There has been no damage done to the Puttenahalli-Yelahanka Lakes by the activities of the Respondent No.4. There have been no illegal encroachments made by the Respondent No.4 onto the Lake areas. Also, there has been no damage caused to Lakes and to the biodiversity of the Lake Area requiring a restitution of environment.

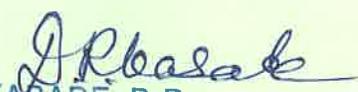


  
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12. Re Para 4, 5 and 6: It is false to state that there has been a gas leakage and a blast at the Power Plant belonging to the Respondent No. 4. It is submitted that the averments of the Appellant have been based on false and unverified newspaper reports partly instigated by the Appellant themselves and therefore should not be given any credence by this Hon'ble Tribunal. As detailed above, the Respondent No.4 submits that there was a fire mishap which occurred and the same is thoroughly being investigated by the crossfaculty team of experts and statutory authorities. It is submitted it is truly unfortunate that engineers who were working on commissioning the turbine at the time had sustained injuries and of whom three have succumbed to the injuries, in spite of our best efforts to give them treatment in the best hospitals. It is submitted that this is a difficult time for the affected employees and their families and the Appellant herein is attempting to use and manipulate facts relating to this unfortunate situation in order to obtain an order in their favour.

13. It is false to state that there was a 'blast' that had occurred in the Plant Site due to a gas leakage. The loud noise that was heard by people in the vicinity was the activation of the fire protection system at the site. The Appellant itself states that the spread of fire was curtailed immediately and prevented from spreading to any areas outside. Therefore, there was clearly no impact on the surrounding lakes or the surrounding residents of the area. The Appellant is put to strict proof of all other averments in this paragraph.



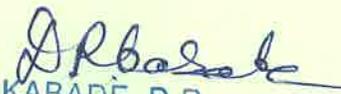
  
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14. **Re Para 7:** It is submitted that any fear psychosis that has allegedly developed in the mind of the people living in the vicinity of the Plant could only have been caused by the spreading of false rumours by the Appellant Trust and publishing of unverified reports by the media. The Appellant should accept responsibility for the same. It is submitted that any connection between this incident and what had taken place in the Vizag gas leak case, has been drawn falsely by the Appellant itself, with malafide intention and solely in order to serve its own interests. There is no similarity, whatsoever between the two incidents; the instant case was a fire mishap which happened within the Plant's Turbine enclosure and has had no effect outside the limits of the Gas Turbine enclosure within the plant, far from having any impact on the residents who reside half a kilometre away from the turbine area or on the Lake environment .

15. **Re Para 8:** It is false to state that that for the past 7 to 8 months there has been an abnormal increase in the heat, air, noise and light pollution caused by the power plant constructed by the Respondent No.4. It is false to state that there has been any direct bearing on birds or any other wildlife in the areas surrounding the plant. The averment that the alleged change in air temperature due to stack emissions have resulted in affecting the migratory patterns of birds itself and that the same has resulted in deposition of pollutants on the water bodies is denied as false and the Appellant is put to strict proof of the same.

16. It is submitted that the gas connection was given by GAIL on 9th September and the testing of the gas turbine was started in the 3rd

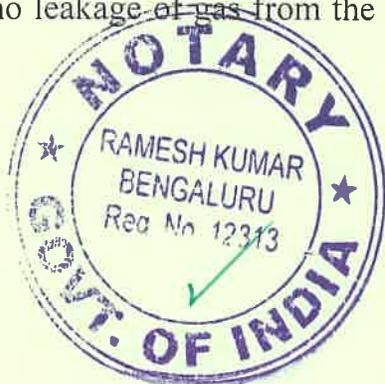


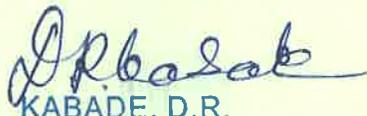
  
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week of September. The burning of gas in the turbine has not even taken place for more than few days. It must be noted that gas is considered a clean fuel and the Hon'ble Supreme Court in the case of Delhi has directed that all buses be shifted to CNG which has had a very noticeable positive impact on the National Capital. Similarly, the Hon'ble High Court of Karnataka has also passed an order prohibiting the BMTC to buy new Diesel buses and to shift to CNG powered buses to reduce pollution in Bangalore.

17. Therefore, the Power Plant having shifted from Diesel to CNG will have long term benefits and therefore the allegations of the Appellant are wholly baseless. Any injunction granted at the best of Appellants will cause irreparable hardship and loss to the entire State of Karnataka, as Rs. 2025 crores have been spent on this project for the energy security of the state. In such circumstances entertaining of such applications will result in serious and severe hardship to public at large and especially the citizens of Karnataka whose hard earned monies have been invested into this project for providing for energy security

18. It is submitted that Respondent No.4 is presently undertaking a root cause analysis into the fire mishap within its premises and ensures that it has and will be taking all measures required to ensure safety within its Plant. At any rate, the same is not the subject matter of the present litigation and has no connection to the same. The Appellant has by its own averments indicated that there was no damage caused in the vicinity of the Lake or in the surrounding residential areas. There has been no leakage of gas from the Power Plant and the same was only a

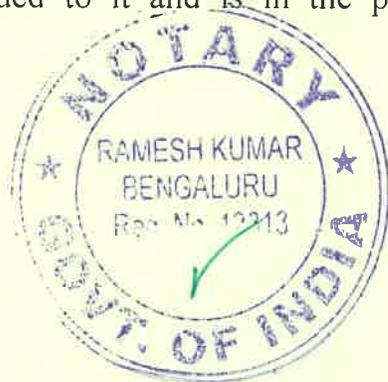


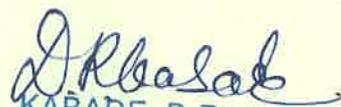
  
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fire mishap within the Plant premises. Therefore, the story of a huge tragedy as weaved by the Respondent No.4 is completely false and self serving. The occurrence of a fire mishap within the plant premises, which has caused no damage whatsoever to the surrounding environment or residences, cannot be manipulated and misconstrued by the Appellant, in order to get an injunction preventing the further construction and commissioning of the Power Plant. All other averments in this paragraph are denied as false.

19. **Re Para 9:** It is submitted that the letters written to the Karnataka State Pollution Control Board and BBMP dated 25/05/2020 are not within the knowledge of the answering Respondent. However, it is submitted that there has been no blasting sounds created or any unabated noise which has adversely affected any birds or other wildlife within the area. It is false to state that there has been any sounds created by the Plant that are a potential health hazard or has adversely affected the health and wellbeing of the birds, animals and people staying in the vicinity of the plant. The content of the letters to the Commissioner of BBMP and the KSPCB are false and concocted. All the claims made by the Appellant are absolutely without any evidence or proof. All other averments in this paragraph are denied as false and the Appellant is put to strict proof of the same.

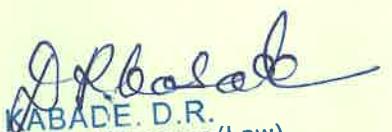
20. **Re Para 10:** It is false to submit that any liquid has been discharged from the Power Plant of the Respondent No.4. The Respondent No.4 is strictly abiding by the terms of the Consent for Establishment and the EC issued to it and is in the process of installing a Zero Liquid



  
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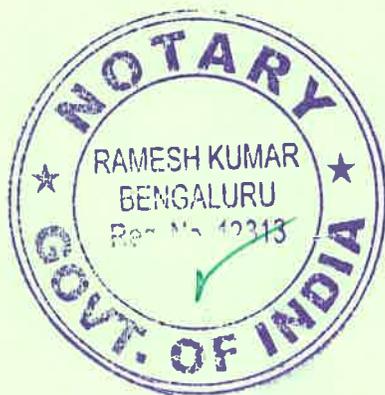
Discharge (“ZLD”) Plant within the premises. In the meantime, a Reverse Osmosis System has been set up and no effluents are being discharged into anywhere outside the Plant premises. There is no possibility of waste water escaping from the Power Plant and entering into the lake, either in the past or in the future. It is false to state that there has been continuous emission of gases due to which the entire area is getting polluted. It is submitted that Natural Gas is a Clean fuel and the Plant is compliance with Environmental Norms. It is also false to state that there is a serious health hazard to old people and children living in the vicinity. The averment that the activities of the Respondent No.4 would result in total annihilation of the Puttenahalli Bird Conservation Reserve and that damage has been caused to the Environment and Birds and Human lives in that area is completely false and the Appellant is put to strict proof of the same. It is submitted that the plant is established within an industrial area with several other industries operating around the Lake area. Notwithstanding the above, attributing any pollution caused in the area exclusively to the Power Plant of the Respondent No.4, especially when the same has not even been commissioned and when the Respondent No.4 is strictly abiding by a Zero Liquid Discharge Condition, is clearly false and being made with mala fide intentions. The Appellant has not raised this claim with respect to the numerous residential apartments in the area who are continuing to discharge untreated effluents into the lake, for reasons best known to it. There has been no effluent discharged from the plant and no froth formation or pollution has been caused as alleged by the Appellant. All other averments in this paragraph are denied as false.



  
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21. **Re Para 11:** It is false to state that the establishment of the Power Plant within the close vicinity of the Puttenahalli Lake would result in the destruction of the Lake Ecosystem. It is also false to state that the Environmental Clearance dated 01/09/2015 is void ab initio and is a nullity. It is submitted that the Puttenahalli Lake was notified as a Bird Conservation Reserve on 10/09/2015, only after the Environmental Clearance was granted to the project. It is completely false to state that the Respondent No.4 had concealed prior knowledge about the Puttenahalli Lake having been declared as a bird conservation reserve. It is not true to state that the establishment of the Power Plant would cause grave and irreparable harm and injury to the Environment and the lives of the people residing in the vicinity. All other averments in this paragraph are denied as false.

22. **Re Para 12 and 13:** It is false to state that the construction of the power plant between the two lakes, i.e. the Yelahanka and Puttenahalli Lake would lead to immense environmental degradation and would adversely affect the flow of water into the lakes through rajakaluves. It is not true to state that as the power plant is being constructed within a vicinity of 500 metres of the Lake, the power to grant the Environmental Clearance is with the MOEFCC. The Power Plant would not disturb any flow of water to the lake and there will be no discharge from the Power Plant into the Lake. Hence, the claims made in this paragraph are nothing but figment of imagination of the petitioners. It is false to state that the present Environmental Clearance granted by SEIAA is void ab initio, and that the approval given to the



  
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Power Plant should be deemed to have been revoked and set aside in larger public interest. All other averments in this paragraph are denied as false.

23. **Re Para 14:** It is submitted that the Respondent No.4 has undertaken several steps to ensure that the lake eco-system is preserved. In order to do so, the lake eco-system has extensively been studied while drawing up the EIA Report. Further the Respondent will be abiding by the stringent conditions imposed by the Environmental Clearance and the Consent for Establishment issued by the Karnataka Pollution Control Board, as per which it has to assure that all waste water generated by it would be treated through a Reverse Osmosis ('RO') system and recycled. The RO reject will be put through evaporators to convert it to salt and disposed off safely as per the Pollution Control Board norms. Hence, there is no chance of any waste water being let in the lakes. The answering Respondent has followed all requirements and conditions and has obtained the Environmental Clearance as per procedure prescribed under law. The answering Respondent has followed all requirements and conditions and has obtained the Environmental Clearance as per procedure prescribed under law. The Power Plant will not pose a threat to the Lakes. The very purpose of the re-categorization of industries by the CPCB was to list non-polluting or "White industries" who would not have to obtain an Environmental Clearance, and that they would be encouraged and given more help in obtaining finance from lending institutions. The new categorization studied the pollution potential of industries to ensure that industries are

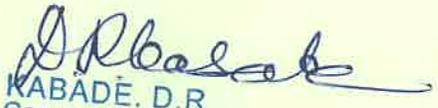


  
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established in a manner consistent with environmental objectives. It is submitted that the Natural Gas based Power Plant of the Respondent No.4 is more environmentally friendly than the Diesel powered Gas Plant operated previously on the site. The Respondent No.4 has obtained an EC after intense studies of the plant and its surroundings by the consultants. Further, the Respondent No.4 has taken all steps to ensure that the environment around the Plant site would be protected including following a no-discharge condition whereby it would not release any effluents into the lakes. It has also taken up various steps to minimize any air and sound pollution of the environment. The Power plant will not pose a threat to the eco-system of the lakes.

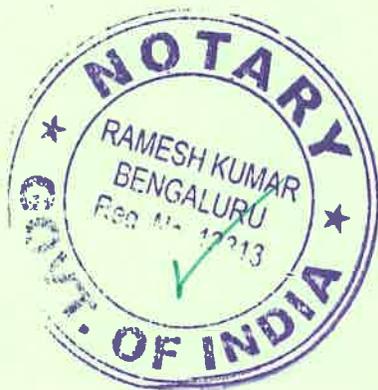
24. It is submitted that the area in which the Power Plant was set up was a declared industrial area. Prior to the establishment of the Combined Cycle Power Plant using Natural Gas, there was a Diesel power plant at the site. The latter was shut down and a more ecologically friendly Natural gas based power plant has now been set up in its place. The Diesel Gas(“DG Plant”) Plant was set up as early as 1993. It is submitted that at the time when the DG Plant was established, there was very little development in the area and the area was purely industrial. The area where the DG Plant was located was initially completely isolated and the city grew over the years and due to lack of residential spaces within the vicinity of the city, lands in industrial areas were sought to be utilized for the same. Thereafter, as the city of Bangalore expanded more residences were set up around the industrial area. The Puttenahalli Lake is currently fed by rainwater and from STP

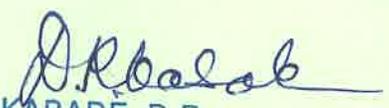


  
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effluent discharges from the surrounding apartments. The same came to be notified as Bird Conservation Reserve only as recently as 10/09/2015. Notwithstanding the above, the Respondent No.4 has followed all prescribed rules in obtaining the EC and the same would not come into the teeth of the Guidelines as the industrial site was pre-existing and was not being set up in the vicinity of the Puttenahalli Lake. In fact, the Respondent No.4 has adopted a more environmentally friendly approach by switching from Diesel to Natural Gas. Further, it is reiterated that no effluents will be discharged from the Power Plant into the Lakes as the Respondent is following a strict Zero Liquid discharge condition imposed by the KSPCB in the Consent for Establishment. In any case, the Puttenahalli lake lies upstream of the Power Plant and no effluents could possibly be drained into it.

25. **Re Para 15:** It is false to state that the Power Plant is being established in an area where no pollution control measures are possible. It is submitted that the Respondent No.4 has taken all precautionary and mitigation measures while setting up the Power Plant and will strictly be abiding by the requirements of the EC. The Respondent No.4 is undertaking tree planting activities to create an extensive green cover within its premises. It is submitted that there will be no discharge of treated water into the Yelahanka Lake which would destroy its water quality or affect its users, as the Respondent No.4 is strictly complying with its Zero Liquid Discharge Condition in its CFE. It is false to submit that secondary pollution control measures have not been



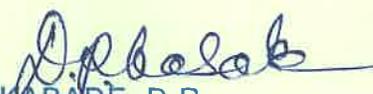
  
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envisaged to handle any emergency situations and that risk factors are high. It is not true to suggest that the EIA Report has been prepared without any application of mind and that the same deserves to be rejected. The averment that the clearance has been issued based on an inchoate report which has failed to identify and perform the basic features of EIA study by an authority without jurisdiction is completely false. All other averments in this paragraph are denied as false.

26. **Re Para 16:** It is false to submit that the heat, air, noise and light pollution from the subject power plant will have a direct bearing on the birds in the area. The averment that the changes in air temperature due to stack emissions would result in affecting the migratory patterns of birds and would result in deposition of pollutants on water bodies are denied as false. It is submitted that the EIA report based on which the EC was granted to the Respondent No.4 has considered all aspects pertaining to the environment and there has been no concealment on the part of the Respondent No.4. There has been no disregard to environmental laws. All other averments in this paragraph are denied as false.

27. **Re Para 17 and Prayer:** It is false to state that there has been any damage to the environment including the lakes, surrounding areas or the bird conservation reserve. There has been no loss of human lives. The Appellant has given no compelling reasons for the grant of injunction against construction or provisioning of the Power Plant by the Respondent No.4 or to stay or suspend the Environmental Clearance dated 01/09/2015 granted to the Respondent No.4.



  
KABADE. D.R.  
Asst. General Manager (Law)  
Karnataka Power Corporation Ltd.  
No. 3, Ground Floor, Green Building,  
(Drugs Control Department Premises)  
Palace Road, Bengaluru - 560 001.

Therefore, it is most humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the Application filed by the Appellant with costs, in the interests of justice and equity.

*[Handwritten Signature]*

KABADE. D.R.  
Asst. General Manager (Law)  
Karnataka Power Corporation Ltd.  
No. 3, Ground Floor, Green Building,  
(Drugs Control Department Premises)  
Palace Road, Bengaluru - 560 001.

BEFORE ME

Place: ✓

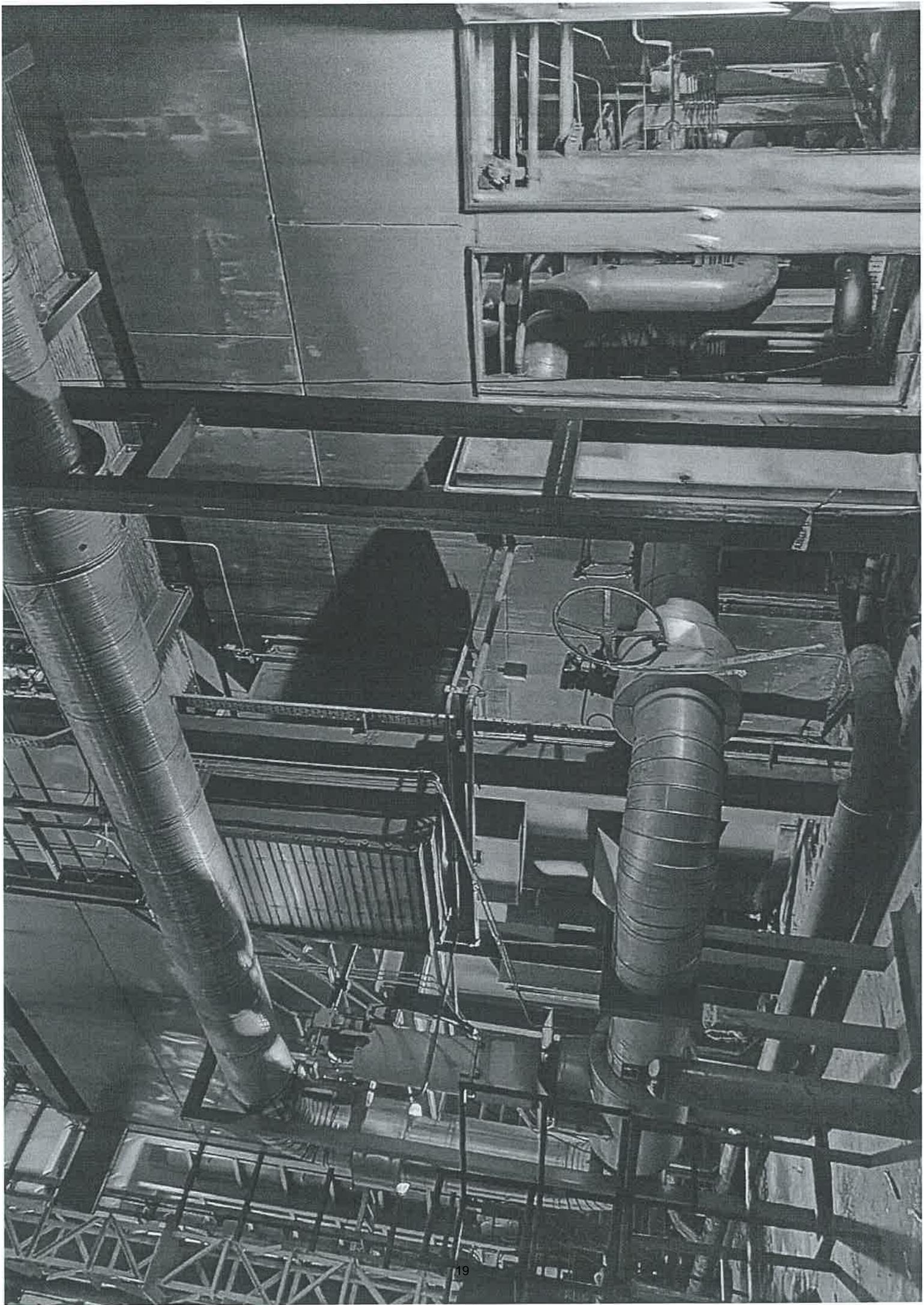
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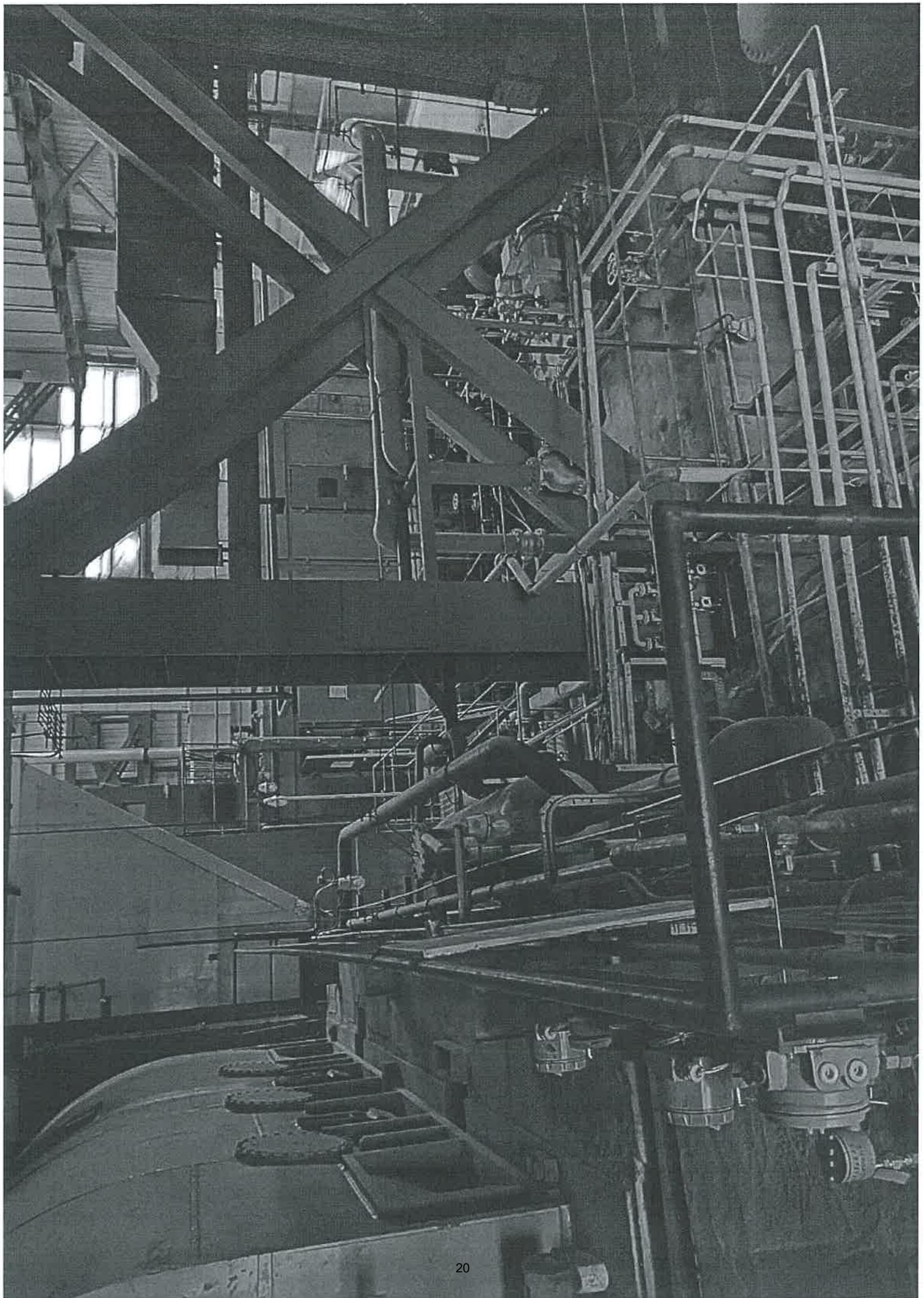


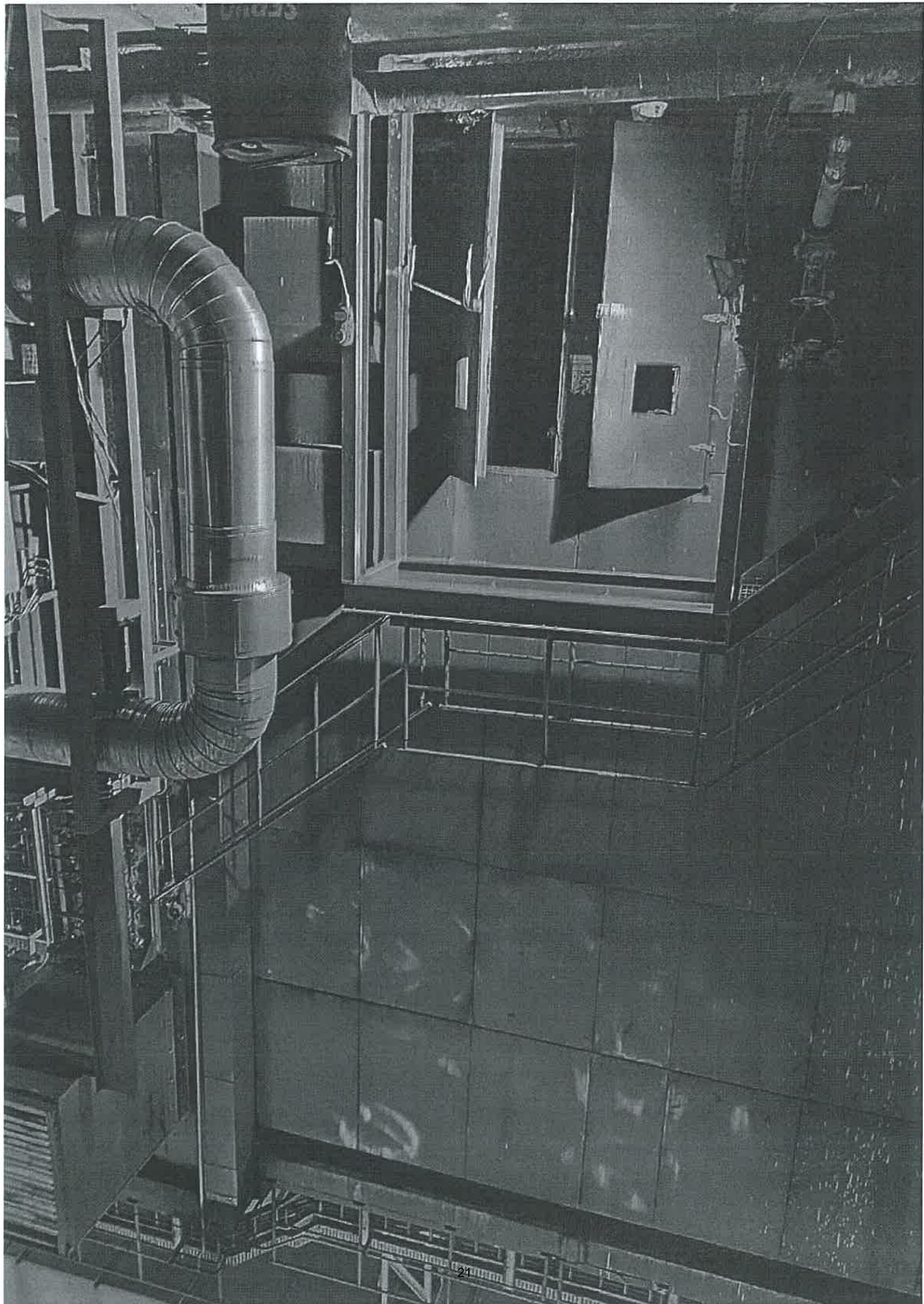
*[Handwritten Signature]*  
AJAY. J. NANDALIKE  
KAR 1580/2007  
ADVOCATE,

Sworn / Solemnly affirmed and signed before me  
on this 19 day of Sep 2022 at Bengaluru  
N.R.SI. No. 3804/2022 Corrections : This  
RAMESH KUMAR  
Advocate & Notary, Bengaluru.  
19/10/2022









**Annexure-R26****KARNATAKA POWER CORPORATION LIMITED****PRESS RELEASE****FIRE MISHAP AT YALAHANKA COMBINED CYCLE POWER PLANT**

There was a fire mishap in the Gas Power Plant at Yelahanka which is under construction and commissioning phase. The construction is being done by BHEL.

Today's incident was a freak fire accident occurred during the pre-commissioning stage involving open circuit test and Short circuit test by BHEL & GE .

The open circuit and short circuit test were to be carried out keeping the turbine rolling at 3000rpm . During the process, the Turbine tripped due to fire protection getting activated at bearing No.2 of gas Turbine. It is suspected that there was oil leakage from bearing and that oil might have caught fire and the flame came out from the Chamber which has resulted in the incident. The fire was immediately extinguished and injured have been rush to the hospital. Root cause analysis is being carried out by M/S.BHEL & M/S.GE to find out the exact reason for the incidence.

Two of our staff have sustained severe injuries and 13 others minor injuries in the freak accident and they are all being given treatment at Aster, M.S.Ramaiah, St.Johns Hospitals and there are no casualties.

There was a mention of "Blast at KPCL Plant" in one of the print media which is completely wrong message out of misunderstanding of the issue and absolutely there was no blast or anything closer to it.

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No.A1Q2D2

Date:02.10.2020

To,The Editor,  
Bangalore.

Kindly publish this news in your esteemed dally.

Yours faithfully,

For Karnataka Power Corporation Limited  
Deputy General Manager(Corporate Communications)