

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
ORIGINAL APPLICATION No. 89 OF 2024**

**IN THE MATTER OF: -**

**Gopinath Majhi**

**...Applicant(s)**

**VERSUS**

**State of Odisha and Ors.**

**...Respondent(s)**

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**VERSUS**

**State of Odisha and Ors.**

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**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO.4 UNION OF INDIA  
THROUGH ITS SECRETARY MINISTRY OF ENVIRONMENT, FOREST AND  
CLIMATE CHANGE**

I, Dr. Timir Haran Mahato s/o Shri P.C Mahato, aged about 49 years, presently working as Scientist 'E' in the Ministry of Environment, Forest, and Climate Change (MoEF&CC), Plot no – A/3, Near Rail Vihar Compound, Chandrasekharpur, Bhubaneswar, Pin- 751023, do hereby, in my official capacity, solemnly affirm and state on oath as under-

1. That, I am acquainted with the facts and circumstances of the instant case and duly competent to swear the present affidavit on behalf of the Ministry of Environment, Forest & Climate Change on the basis of the official records maintained therein.

It is humbly submitted that, all the averments made in the instant petition are denied except those, which are specifically admitted herein this reply affidavit.

3. It is humbly submitted that, the applicant's grievance is that the Odisha Power Generation Corporation Ltd. (OPGC), a Thermal Power Plant in Banaharpali, Jharsuguda District, is causing significant environmental hazards due to improper fly ash management, violating its EC conditions. The Applicant seeks the removal of Fly ash from both land and the backwater of Hirakud Reservoir, restoration of the affected land, and an evaluation of the ash pond's compliance with siting criteria and its impact on the Hirakud Wetland.

*Timir Haran Mahato*



4. It is humbly submitted that the Answering Respondent has been following a set procedure for Post Environmental Clearance Monitoring and Compliance of projects based on the Standard Operating Procedure (hereinafter referred to as "SoP") established vide Office Memorandum dated 25.11.2022. A copy of the Office Memorandum dated 25.11.2022 is annexed herewith as **Annexure-R4/1**.
5. It is further submitted that as per the SoP, the Ministry first seeks a Monitoring Report/Condition-Wise Compliance Report (hereinafter referred to as "CCR") from the concerned Regional Office (hereinafter referred to as "RO"). Based on the observed non-compliance in the Monitoring Report/CCR, either a Clarification or an Action Taken Report (hereinafter referred to as "ATR"), or in the case of major noncompliance, a Show Cause Notice (hereinafter referred to as "SCN") under Section 5 of the Environment (Protection) Act, 1986 is issued. The ATR or the response to the SCN submitted by the Project Proponent is reviewed by the Ministry before concluding any action in the matter. This may also require an SCN after the ATR and a Personal Hearing. Further decision is taken based on the outcome of the Personal Hearing.
6. It is humbly submitted that, in pursuance of the above mentioned SoP, the Answering Respondent has issued a letter dated 31.07.2024 to the Regional Office of the Ministry at Bhubaneswar, requesting them to furnish a factual status report concerning the issues raised in the application, along with a condition-wise compliance status report (s) for all the ECs associated with the project. A copy of the letter dated 31.07.204 has been annexed herewith as **Annexure-R4/2**.
7. It is further submitted that the monitoring report for the Environmental Clearances granted to Respondent No. 14, M/s Orissa Power Generation Corporation Ltd., is awaited from the RO, Bhubaneswar. Therefore, in the present case, necessary action will be initiated by the Answering Respondent upon completion of all the due procedures in line with the SoP dated 25.11.2022.
8. It is humbly submitted that, the present Reply Affidavit may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate Order(s). direction(s) as deemed fit and proper under the facts and circumstances of the present case.

*Limix Haran Mahab*



9. It is humbly submitted that, the Answering Respondent seeks leave to make additional submissions, if required, during the course of the proceedings.

*Timir Haran Mahato*

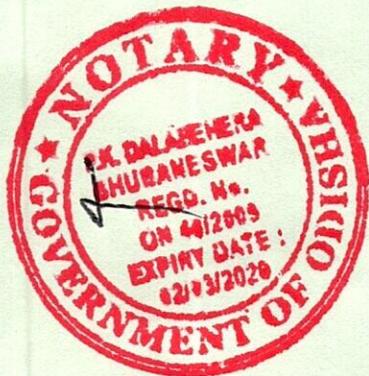
DEPONENT



IDENTIFIED BY ME  
*[Signature]*  
ADVOCATE, BHUBANESWAR

VERIFICATION

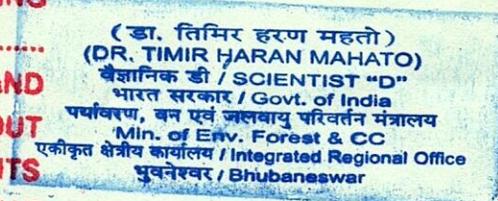
I, the above named Deponent, do hereby verify that the contents of the above affidavit are true and correct to my knowledge as per the records of the answering respondents. No part of it is false and nothing material has been concealed there from. Verified at Bhubaneswar on this 1<sup>st</sup> day of August 2024.



*Timir Haran Mahato*

DEPONENT

THE ABOVE NAMED DEPONENT BEING  
IDENTIFIED BY me  
ADV. BBSR APPEARS BEFORE ME AND  
STATE AN OATH ON 1<sup>st</sup> AT ABOUT  
10:30 AM/PM THAT THE CONTENTS  
OF THIS AFFIDAVIT ARE TRUE TO THE  
BEST OF HIS/ HER KNOWLEDGE



*[Signature]*  
P K DALABEHERA  
Notary, Bhubaneswar  
Regd. No. ON-46/09

**IA-J-11014/112/2022-IA-I**  
**Government of India**  
**Ministry of Environment, Forest & Climate Change**  
**Impact Assessment Division**

\*\*\*

Indira Paryavaran Bhavan,  
 Jor Bagh Road, New Delhi-110 003  
 Dated: 25<sup>th</sup> November, 2022

**Office Memorandum**

**Sub:- Standard Operating Procedure (SOP) for Post Environmental Clearance Monitoring and Compliance of the project -reg.**

**Background**

The Ministry has established 19 Integrated Regional Office (IROs) vide Notification No. 1-5/2013-ROHQ dated 13<sup>th</sup> August, 2020 with a view to achieving mandated outcomes related to Monitoring and Compliance of the project in an improved, timely and effective manner.

2. As far as monitoring and compliance of EC conditions are concerned, as per para 10 of the EIA Notification, 2006, it is mandatory for the project proponent to submit half-yearly compliance reports in respect of the stipulated EC conditions to the Ministry and its Integrated Regional Offices (IROs).

**The prescribed SOP wrt the Monitoring & Compliance is as given below:**

1. **IROs undertake inspection of the unit, with respect to the following scenarios:**
  - i. IRO identifies ambiguity in half-yearly compliance reports with respect to the stipulated EC conditions submitted by Project Proponent (PP).
  - ii. PP request IRO for issuance of Certified Compliance Report (CCR) in order to apply for expansion of the project under EIA, Notification 2006.
  - iii. Complaint received against the project.
  - iv. Direction from the Ministry based on PMO/VIP/PG/RTI etc. references.
  - v. Random Inspection of projects.
  - vi. Direction from Hon'ble court in various Court Matter.
2. Based on the observations during Monitoring IRO seeks Clarification/Action Taken Report (ATR) to the PP and submit Monitoring Report along with the clarification letter to the Ministry.
3. If PP fails to respond to it a reminder letter is sent by IA-Monitoring Cell allowing PP to submit ATR in 15 days.
4. **Action on the Monitoring Report by the Monitoring Cell:** Monitoring Cell of Ministry analyse the monitoring report submitted by IRO. Based on the observed Major and Minor partial/non-compliances clarification/ATR, if necessary, is sought from Project Proponent with direction to submit the response within a period of Thirty (30) days. If PP fails to submit the response of clarification/ATR letter within the time line period, a reminder letter as warning issued to the PP.

5. The response submitted by PP is examined in the Ministry and the Action taken report submitted by PP is sent to IRO for further verification. Based on IRO's verification report following actions are contemplated:

- i. If no satisfactory action has been taken by the PP and EC conditions are yet to be complied Ministry may issue Show-Cause Notice under the Section 5 and other provisions which may include Section 15 and 19 of the Environment (protection) Act, 1986.
- ii. If it is observed that the non-compliances are not rectified, Ministry provides an opportunity to PP for clarification in personal hearing under the chairmanship of officer not below the rank of Joint Secretary. Based on the outcome of the personal hearing if necessary, direction for Compensation/Suspension of EC may be issued.
- iii. If it is observed that PP has taken credible action to comply with the condition and the action is expected to be completed with some additional time, Ministry grant additional time in which actions are expected to be completed by PP to fully comply with the conditions mentioned in the EC and submit the compliance report duly verified by concerned IRO to the Ministry.
- iv. If it is observed that PP has now complied with all the conditions and the same has been confirmed in the verification report, Ministry issues Action Closure Letter (ACL) to the PP with direction to continuously submit six monthly compliance report on time.
- v. If it is observed that PP has violated the provisions of EIA Notification, 2006 and attracts the provisions of SOP dated 07.07.2022, Monitoring Cell intimates the concerned sector for taking appropriate action as deem fit.

**6. Action after issuance of Show Cause Notice:**

- i. Monitoring Cell of the Ministry prescribes a time line of Fifteen (15) days or Thirty (30) days for submission of reply of SCN based on the gravity of non-compliances. If PP fails to submit the response of SCN within the prescribed time period, if necessary, a warning letter may be issued.
- ii. The response to SCN submitted by PP is examined in the Ministry and if found necessary the reply submitted by PP is sent to IRO for further verification. Based on IRO's verification report following actions are contemplated:
  - a. If it is observed that PP has now complied with all the conditions and the same has been confirmed in the verification report, Ministry issues ACL to the PP with direction to continuously submit six monthly compliance report on time.
  - b. If it is observed that the non-compliances are not rectifiable, Ministry provides an opportunity to PP for clarification during personal hearing under the chairmanship of officer not below the rank of Joint Secretary. Based on the outcome of the personal hearing if necessary, direction for Compensation/Suspension of EC may be issued.

**7. Action in other scenarios:**

- i. If it is observed that there is imminent risk to the environment and health due to non-compliance by the PP, SCN with time line of Fifteen (15) days is issued to PP. If PP fails to submit the response of SCN within the prescribed time period, if necessary a warning letter may be issued otherwise after Fifteen (15) days personal hearing may be conducted under the chairmanship of officer not below the rank of Joint Secretary.

- ii. Based on the outcome of the personal hearing if necessary, direction for Suspension of EC or other prescribed action under EPA may be issued.
- iii. If it is observed that due to non-compliance, accident has already been taken place, Ministry may immediately suspend the EC of the project till all the conditions are complied and duly verified by concerned IRO.

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URGENT  
Speed Post/Online



File no. IA-L-11011/43/2024-IA-I  
Government of India  
Ministry of Environment, Forest and Climate Change  
(I.A. Division)  
\*\*\*\*\*

Indira Paryavaran Bhavan  
Jor Bagh Road, Aliganj  
New Delhi-110 003  
Email: [bhardwaj.adiraju@gov.in](mailto:bhardwaj.adiraju@gov.in)  
Dated: 31<sup>st</sup> July, 2024

To,

Deputy Director General of Forests (C),  
Ministry of Environment, Forest and Climate Change,  
Integrated Regional Office A/3,  
Chandersekharpur, Bhubaneswar - 751023

Sub: Original Application No. 89/2024 titled '*Gopinath Majhi v. State of Odisha and Ors.*'  
pending before the NGT (EZ), Kolkata - reg.

Ref:

- i. A copy of O. A. No. 89/2024 titled '*Gopinath Majhi v. State of Odisha and Ors.*'  
pending before the NGT (EZ).
- ii. Ministry's EC letter no. J-13011/59/2008-IA.II (T), dated 04.02.2010.
- iii. Ministry's EC letter no. J-13011/59/2008-IA.II (T), dated 22.01.2014.

This is in reference to Original Application No. 89 of 2024 titled "Gopinath Majhi v. State of Odisha and Ors." pending before the NGT (EZ). The applicant's grievance is that the Odisha Power Generation Corporation Ltd. (OPGC), a Thermal Power Plant in Banaharpali, Jharsuguda District, is causing significant environmental hazards due to improper fly ash management, violating its EC conditions. The Applicant seeks the removal of Fly ash from both land and the backwater of Hirakud Reservoir, restoration of the affected land, and an evaluation of the ash pond's compliance with siting criteria and its impact on the Hirakud Wetland.

2. In this regard, the Regional Office (RO) of the Ministry at Bhubaneswar is requested to furnish a (i) factual status report concerning the issues raised in the application, along with (ii) condition-wise compliance status report (s) for all the ECs associated with the project.

3. Considering the exigency associated with the Court Matter, it is requested to furnish the desired information/inputs urgently to the Ministry.

This issues with the approval of the competent Authority.

Enclosed: as above.

(Dr. Bhardwaj Adiraju)  
Joint Director/Scientist 'D'