

BEFORE THE HON'BLE NATIONAL GREEN
 TRIBUNAL, EASTERN ZONE BENCH, KOLKATA
Original Application No. 89/2024/EZ

Gopinath Majhi Applicant

-Versus-

State of Odisha and Others Respondents

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DATE: 4. 11. 24.

BY OPP PARTY NO.14 THROUGH

Apil Acharya
 ADVOCATES



**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

Original Application No. 89/2024/EZ

Gopinath Majhi Applicant

-Versus-

State of Odisha and Others Respondents

**COUNTER AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 14 M/s ODISHA POWER
GENERATION CORPORATION LTD.**

I, Parthasarathi Panda, S/o Mihir Prakash Panda, aged about 44 years, working as Senior Manager (EHS) in Respondent No.14, M/s Odisha Power Generation Corporation Ltd. having its office at: Zone-A, 7th Floor Fortune Towers, Chandasekhrpur, Bhubaneswar, Odisha do hereby solemnly affirm and state as under: -

1. That I am the Authorized Signatory of the Respondent No.14, M/s Odisha Power Generation Corporation Ltd. I am conversant with the facts and circumstances of the present case and I am competent to file the present Counter Affidavit on behalf of Respondent No.14.
2. That, at the outset, it is submitted that the answering respondent denies all the allegations made in the

Authorized Signatory

Parthasarathi Panda
Odisha Power Generation Corporation Ltd.

Gopinath Majhi

3/4-11/2024
Surendra Prasad Dhal
Advocate
NOTARY, CUTTACK

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Application filed by the Applicant before the Hon'ble Tribunal. The averments contained in the Application filed before the Hon'ble Tribunal are deemed to be denied, except those, which are expressly admitted.

3. That, it is relevant to state here that the Respondent No.14- Odisha Power Generation Corporation Ltd. (hereinafter, referred to as OPGC) is a fully owned Government Company of Government of Odisha. Incorporated on November 14, 1984, OPGC started as a wholly owned Government Company of the State of Odisha with the main objective of establishing, operating & maintaining large Thermal power generating stations. OPGC operates state of the art thermal power plants at Banharpali, Jharsuguda. It has a total generation capacity of 1740 MW (2x210 MW in first phase and 2x660 MW in second phase). OPGC is a key player in the energy landscape of the state, catering to over 30% of the state's load demand. It is further relevant to mention here that for construction of Ash Ponds for its 1st Phase units (2X210 MW Unit No.1 & Unit No.2), OPGC had availed 544.94 Acres of land, out of which 452 Acres were of Water Resource Department, Government of Odisha, whereas the Balance 36.59 Acres was Pvt. Land & 56.35 Acres was Govt. Land. The Water

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Pankaj Kumar
Odisha Power Generation Corporation Ltd.

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Resources Department, Government of Odisha & OPGC both being under Govt. of Odisha, the Water Resource Department had handed over 452 Acres of excess land to OPGC. Over the above-mentioned area of 544.94 Acres, OPGC has constructed 3 Nos of Ash Ponds (Ash Pond-A, B & C). The Ash Pond-A was commissioned on 31.08.2007, Ash Pond-B on 03.06.1995 & Ash Pond-C was commissioned on 17.04.2017. As on date Ash Pond-B has been exhausted and reclaimed & Ash Pond-A & Ash Pond-C are operational.

4. That, before responding to the para wise averments made by the Applicant, it is submitted that the Application filed by the Applicant deserves to be dismissed on the following preliminary objections.
5. That, it is humbly submitted that the present Application in the nature of purported public interest filed before the Hon'ble Tribunal is a gross abuse of the process of this Hon'ble Tribunal. That the conduct of the Applicant disentitles it from any relief from this Hon'ble Tribunal. It is humbly submitted that in the present Application the Applicant has made several misstatements and concealments. The misstatements and concealments are material and relevant for the just and proper decision of the issue raised in the

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Pankaj Singh
 Odisha Power Generation Corporation Ltd.

Pradeep Acharya

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 Surendra Prasad Dhar
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that OPGC has not been able to manage fly ash in existing capacity, which is per se false and without basis. It is pertinent here to mention that OPGC maintains high level of professional ethics and has much concern for the environment and therefore OPGC has taken the utmost care to utilise the ash.. Further, it is relevant to state that the ash has never been misutilised or dumped except for the designated place. OPGC is well known amongst all power generators & regulators for its best practices in Ash Pond & Ash Management. OPGC has undertaken the following recourses to maximize ash utilization and to reduce dependency on ash ponds:

- i. It has developed state of art technology for direct loading of ash in to railway rakes (It has 3 Nos of silos of 2700 MT capacity each)
- ii. Has signed an MoU with M/s Ambuja Cement for uptake of 1 million MT of ash per year & ash uptake is already in progress.
- iii. Has signed another agreement with M/s Dalmia Cement for uptake of 1 million MT of cement per year & ash uptake is already in progress
- iv. OPGC is in process of conducting studies for feasibility of ash utilization in mine voids/

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Odisha Power Generation Corporation Ltd.

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concurrent filling/ blending with external overburden.

- v. Beside above, it is also stated that, as per latest Fly Ash Notification dt.31.12.2021, OPGC has a timeline to comply to 100% ash utilization by 31st March 2027.
9. That the averments contained in para 4 of the Application are misconceived and incorrect, hence denied. At the outset it is denied that the ashponds at Kantatikira/Rengali (Unit 1 & 2) and Tilia (Unit 3 & 4) are constructed adjoining the Hirakud Reservoir.

It is humbly submitted that earlier the same advocate, as in the present application for the applicant, had filed a petition in respect of the Ashpond for Tilia (Unit 3 & 4) of OPGC, which was dismissed by the Hon'ble Tribunal vide order dated 17.02.2020. It is relevant to state that the Environment Clearance was granted for Unit 3 & 4 vide Letter dated 04.02.2010. It is further relevant to state that for the Tilia ashpond (Unit#3 & Unit#4), the total land acquired was 357 Acres, out of which 49 Acres was left out untouched for maintaining the distance of 500 m from the HFL of Hirakud Reservoir. The Hon'ble Tribunal vide Order dated 17.02.2020 (Maa Ambika Mahila Group v. State

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&Ors) has noted the above facts to dismiss a similar complaint filed by the self same advocate as in the present case. It is pertinent here to mention that despite the fact that Mr. Sankar Prasad Pani was also the advocate for the Maa Ambika Mahila Group and well aware of the NGT order dated 17.02.2020 mentioned, the same issue has been raised in the present application alleging that the Tilia Ash Pond being in close proximity to Hirakud reservoir HFL and is not maintaining minimum distance of 500 m from HFL. This clearly shows the maligning intention of the Applicant and amounts to re-litigation and abuse of process.

The allegations regarding Kantatikira/Rengali ash pond (Unit 1 & 2) is also unfounded because the said ash pond is in existence prior to the Notification dated 28.08.2019 of the MOEFCC, Govt of India whereby the requirement of 500 m distance from HFL has been provided.

Copy of Order dated 17.02.2020 (Maa Ambika Mahila Group v. State &Ors) of the Hon'ble NGT, Eastern Zone Bench is annexed herewith as **Annexure-A/14**.

10. That, the averments contained in para 5 of the Application do not need any reply. The ash ponds of

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Pandurangaraj Parida
 Odisha Power Generation Corporation Ltd.



OPGC are in existence prior to the Notification dated 28.08.2019 of the MOEFCC, Govt of India whereby the requirement of 500 m distance from HFL has been provided. It is relevant to state here that the Tilia Ash Ponds for Unit#3 & Unit#4 maintains a minimum distance of 500 m from HFL of Hirakud reservoir as mentioned above. The Ash Ponds A, B&C for Unit#1 and Unit#2 were constructed in 1990s. The Ash Pond A started operating from 31.08.2007, the Ash Pond B started operating from 03.06.1995 and the Ash Pond C started operating from 17.04.2017, which are much before the Notification dated 28.08.2019 of the MOEFCC. The said ash ponds have been constructed after all due approvals from OSPCCB.

11. That, the averments contained in para 6 of the Application do not need any reply. However, it is submitted here that the Ash Pond C and Tilia Ash Ponds are lined with HDPE membrane. All precautionary measures like sand chimney, rock toe with toe drain, garland drains to collect all leachates and to recirculate it through Secondary Settling Tank. Samples of ground water and surface water are regularly analyzed to ascertain that there is no contamination of the water bodies. OPGC will take up feasibility of converting LCSD system to HCSD

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 Power Generation Corporation Ltd.



system in its R&M programme of Unit#1 & Unit#2 which are already 30 years old.

12. That the averments contained in para 7 of the Application do not need any reply in as much as the said paragraph quotes the guidelines of June 2023, which is much after the operational date of the present ash ponds in question.
13. That the averments contained in para 8 of the Application are misconceived and without basis, hence disputed. The averments are in the nature of suggestions of the applicant which are not admitted.
14. That, the averments contained in para 9 of the Application are misconceived and without basis, hence disputed and denied. The basis for calculation of distance of ash ponds from reservoir is erroneous, since the superimposition method of entities qua google maps cannot indicate the distance. It is humbly submitted that the Tilia Ash Ponds for Unit#3 & Unit#4 maintains a minimum distance of 500 m from HFL of Hirakud reservoir as mentioned above. The Ash Ponds A, B & C for Unit 1 and Unit#2 were constructed in 1990s and are operational prior to the Notification dated 28.08.2019 of the MOEFCC stipulating distance of 500 m from HFL. The Notification dated 28.08.2019 of the MOEFCC

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cannot be made applicable retrospectively. In fact, in order to maintain the ash pond and avoid any Environmental Damage while handling ash & ash ponds, the following activities are ensured by the OPGC:

- i. Non operational ash ponds/ or intermittently when an ash pond is not in use are capped with a layer of soil so that the ash is not exposed to air and does not get air borne.
 - ii. The ash ponds are layered with HDPE membrane to ensure that there is no contamination of ground water.
 - iii. 100 % recycling of decanted ash water back in to the system is made through 3 Nos of dedicated pumps (of Capacity 1000 m³/hr each) of which 2 are operational and 1 remains stand by. There are different sets of pump house for Ash Pond A, B, C & Tilia ash ponds.
15. That the averments contained in para 10 of the Application are misconceived and incorrect, hence, disputed and denied. The averments made are disputed and denied save and except the facts which form part of records.

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 Advocate
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16. That the averments contained in para 11 and 12 of the Application are disputed and denied save and except the facts which form part of records.
17. That the averments contained in para 13 and 14 of the Application are disputed and denied save and except the facts which form part of records. It is relevant to state here that as per Fly Ash notification dated 31.12.2021 and amendments made thereto, there are certain stipulations regarding disposal of Fly Ash for plants which begin operation, i.e. a minimum of 80% utilization per year and 3 years compliance cycle is applicable for those power plants which have achieved a minimum ash utilization % of 80% in the FY 2021-22. In this regard, for OPGC, a 5 years compliance cycle is applicable to have average 100 % ash utilization by 31st March 2027.
18. That the averments contained in para 15 of the Application are misconceived, hence disputed and denied. It is humbly submitted that Radiological analysis of Coal & ash is being carried out periodically as per EC condition. The assertion that no such study has been conducted is incorrect.
19. That the averments contained in para 16 of the Application are misconceived, hence disputed and denied. It is humbly submitted no ash is being

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 Odisha Power Generation Corporation Ltd.

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dumped into the reservoir. It is relevant to state that 100 % recycling of decanted ash water back in to the system is made through 3 Nos of dedicated pumps (of Capacity 1000 m³/hr each) of which 2 are operational and 1 remains stand by. There are different sets of pump house for Ash Pond A, B, C & Tilia ash ponds. Further, OPGC is not aware of any such public grievances as mentioned in the said paragraph.

20. That the averments contained in para 17 of the Application are misconceived, hence disputed and denied. It is humbly submitted CPCB has directed to carry out such study on leaching on Ground water through institute of national repute. The study is in progress.
21. That the averments contained in para 18 of the Application are misconceived, hence disputed and denied. The incident mentioned in the said para is regarding the breach of Ash Pond-C on 09.12.2023. It is submitted that the breach occurred in the direction opposite to the Hirakud reservoir and there has been no ingress of ash water to reservoir. The said facts have been clearly mentioned in the Joint inspection report of CPCB/OSPCB/ Jharsuguda District Administration & by another Joint Inspection Committee report of CPCB/MoEF & CC/ Jharsuguda

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 Surendra Prasad Dha
 Advocate
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District Administration). The same has also been verified by Hirakud Dam Division. Therefore, there is no damage to ecosystem/ biodiversity due to operation of OPGC. However, as a precautionary measure and as per direction of CPCB, OPGC is conducting an Environment Damage Assessment study. As on date all spilled ash has been recovered and taken back to the ash pond. The filing of the present application is based on concocted facts arising from an accidental breach which has been attended to and taken care of by the authorities.

22. That the averments contained in para 19 of the Application are misconceived, hence disputed and denied. It is submitted that OPGC has not breached any guidelines regarding maintaining green cover around the ash pond. It is relevant to state here that OPGC has a total green belt cover of 34.81 % of its area as against the statutory practice of 33%, which is much more than most of the other industrial units, for which OPGC has been appreciated by regulators (OSPCB/ CPCB/ MoEF & CC/ District Administration) for its initiatives on green belt development.
23. That the averments contained in para 20 of the Application are misconceived, hence disputed and

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Purushottam Mohan
 Odisha Power Generation Corporation Ltd.

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denied. The reasons mentioned and stated for ash pond breach were the prima facie views. However, the point wise comments of OPGC against the sub paras a), b) & c) under para 20 are provided hereinbelow:

- a. It is stated here that when Ash Pond C had breached, the height raising work of its bunds had just started and height raising work can only be initiated when freeboard is less than 0.5 m. This explanation has already been given to OSPCB during CTE amendment meeting on 08.01.2024. It is a technical requirement which is informed to the OSPCB.
- b. The slope of the ash pond technically refers to the dyke slope which is as per approved design of IIT Chennai & has nothing to do with ash distribution inside the pond. However, OPGC makes it clear that OPGC has adopted ring discharge method to distribute ash evenly inside the pond. Further it is also explained that sufficient space is left close to decantation tank area so that there is proper settling of ash and the supernatant water is clear. It is quite evident from the petition of the applicant that he is completely unaware about the technicalities of the ash ponds.

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 Adv. Dr. Prasad Dhai
 Advocate
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Pankaj Kumar
 Odisha Power Generation Corporation Ltd.

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24. It is stated here that at the time of breach Ash Pond-C had a vacant space of around 40 Lakh MT and it does not matter whether Ash is discharged from OPGC Unit#1 & Unit#2 or Bottom Ash from Unit#3 & Unit#4 as long as there is space available in the ash pond & by doing so OPGC does not violate any conditions stipulated by regulatory authorities. The provision has been made for discharging bottom ash of Unit 3&4 in Ash Pond-C intermittently whenever there is any blockage in bottom ash disposal line leading to Tilia ash pond which is located at a distance of 7 km from Ash pond-C.
25. That the averments contained in para 20, At Page 20 and Para 21 of the Application are misconceived, hence disputed and denied. The allegations regarding 'deliberate breach of ash pond', 'pumping of more ash slurry into ash pond', etc are baseless and surmises, hence denied. The dyke restoration costs after the breach has been about Rs.35 Crores, including conducting RCA study, Environmental damage assessment study and paying compensation to the land owners & shifting back ash to ash Pond-C, undergoing production loss. Hence, any allegations of intentional breach cannot have any basis particularly at time when OPGC has applied for obtaining EC for

Authorised Signatory
Pankaj Kumar Singh
 Odisha Power Generation Corporation Ltd.

Pratibha

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 Surendra Prasad Dhal
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its upcoming Unit#5 & Unit#6. There is no correlation between the land acquisition process initiated in respect of the lands prior to the breach occurrence.

It is further stated here that OPGC is a Government of Odisha company, having long established tradition of following the regulations and supplies more than 30% of the state's domestic electric supply. Hence, such allegations of making intentional dyke breach and relating it to the process to acquire lands is without basis.

26. That the averments contained in para 22 of the Application are misconceived, hence disputed and denied. Breach of ash ponds all over the country cannot be correlated to the present one-off incident in OPGC. It is submitted that OPGC has taken all necessary steps so as to not repeat such incident in future.
27. That the averments contained in para 23 of the Application are misconceived, hence disputed and denied. The facts mentioned by the Applicant are misconceived, rather it is humbly submitted that as per communication received from the CPCB regarding the issue by Sri Suresh Pujari, Hon'ble M.P., Lok Sabha about the breach of ash pond dyke

Authorised Signatory

Abhishek Kumar

Odisha Power Generation Corporation Ltd.

Prakash

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of the R.No.14 unit, a joint inspection was carried out on dtd.27.02.2024 (2nd Joint inspection was carried out by MoEF&CC/CPCB & Dist Administration Jharsuguda on 12.06.2024) and direction has been issued to OPGC to comply recommendation of joint inspection report.

Copy of the joint inspection reports and direction issued by the Board are annexed herewith as Annexure-B/14 Series.

28. That the averments contained in para 24 of the Application are misconceived, hence disputed and denied. The averments regarding height raising has no correlation with accidental breach of dyke. It is submitted that at the time of incident, Ash Pond height raising work had not yet been initiated, thus, height raising has no correlation with breach. Further, the decision to permit raising the height of the ash dyke is give by a highly expert CTE committee based on technicalities and designs and drawings of IIT/expert study.
29. That the averments contained in para 25 of the Application are misconceived, hence disputed and denied. The averments relating to status of the ash ponds A, B & C are misconceived.

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Odisha Power Generation Corporation Ltd.

Surendra Prasad Dhal
Advocate
NOTARY, CUTTACK





30. That the averments contained in para 26 of the Application are misconceived, hence disputed and denied. There are no violations of CTO conditions or any failure to contain fly ash, hence, there is no illegality or infirmity in renewal of CTO in favour of the project proponent. The averments that no tangible action is taken in respect of ash pond breach is incorrect.
31. That the averments contained in para 27 of the Application are misconceived, hence disputed and denied. It is submitted that OPGC abides all guidelines and notifications issued by MoEF & CC in relation to wetland conservation. OPGC has also undertaken many activities for Wetland conservation in its site-specific wildlife conservation plan.
32. That the averments contained in para 28, 29, 30, 31, 32 and 33 relate to the stipulations regarding Ramsar Convention on Wetlands which has been implemented in India. The averments in the abovementioned paragraphs need no reply since the same state the prevalent law in India.
33. That the averments contained in para 34 of the Application are misconceived, hence, disputed and denied. It is stated here that High Flood Level of Hirakud Reservoir (630 Ft) is the maximum storage

Authorised Signatory
Ramkrishna Pradhan
 Odisha Power Generation Corporation Ltd.

Surendra Prasad Dha
 Advocate
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Prithvi

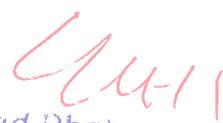


capacity of the reservoir and it remains constant. It is also made clear that the referred notification came into effect on 26.09.2017, whereas the commissioning date of Ash Pond C as stated hereinbefore is 17.04.2017, i.e. the commissioning of the Ash Pond C was much prior to the Notification dated 26.09.2017. It is also relevant to state that the OPGC had obtained the CTE for the construction of the Ash Pond on 12.11.2012 and construction activity had started by 2013.

34. That the averments contained in para 35 of the Application are misconceived, hence, disputed and denied. The present Respondent or the State or Central Authorities have not breached any provisions of the EP Act, 1986 or any provision of law made applicable to the project proponent.
35. That the averments contained in para 36, 37, 38 of the Application relate to wetland conservation and need no reply of the present Respondent.
36. That the averments contained in para 39 of the Application are incorrect and misconceived, hence disputed and denied. It is relevant to state that OPGC abides by all notification given by MoEF & CC in relation to wetland conservation. OPGC has also

Authorised Signatory
 Pariksha Saranathi Nayak
 Odisha Power Generation Corporation Ltd.

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 Surendra Prasad Dhali
 Advocate
 NOTARY, CUTTACK

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undertaken many activities for Wetland conservation in its site-specific wildlife conservation plan.

37. That the averments contained in para 40 are incorrect and misconceived, hence disputed and denied. The principles of polluter pays and precautionary principle as envisaged by the Hon'ble Supreme Court for the protection and upliftment of the environment are adhered to by all entities. The assertion that estimated cost of project may be collected apart from criminal prosecution is misconceived and vague. The preceding paragraphs state the steps taken by the OPGC in adhering to the law and containing the damage caused by the accidental breach. The authorities, including OPGC have taken all steps to remedy the damage caused by the breach of dyke. Hence, further compensation or criminal prosecution is uncalled for and disproportionate.
38. That, the averments made in Ground A of the Application are misconceived and incorrect, hence denied. It is submitted that the breach occurred in the direction opposite to the Hirakud reservoir and there has been no ingress of ash water to reservoir. The said facts have been clearly mentioned in the Joint inspection report of CPCB/OSPCB/ Jharsuguda District Administration & by another Joint Inspection

Authorised Signatory
Punjab Sarmah
 Orisha Power Generation Corporation Ltd.

Smit Singh

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 Surendra Prasad Das
 Advocate
 NOTARY, CUTTACK

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Committee report of CPCB/MoEF & CC/ Jharsuguda District Administration). The same has also been verified by Hirakud Dam Division. Therefore, there is no damage to ecosystem/ biodiversity due to operation of OPGC. However, as a precautionary measure and as per direction of CPCB, OPGC is conducting an Environment Damage Assessment study.

39. That, the averments made in Ground B and C of the Application are misconceived and incorrect, hence denied. The authorities, including OPGC have taken all steps to remedy the damage caused by the breach of dyke. OPGC being completely owned by the Govt. of State of Odisha denies to be a company running its operation for only commercial gain. It is intimated to the Hon'ble court that OPC meets around 30% of the State's electricity demand. Hence, any further action may be uncalled for and disproportionate. It is further stated that OPGC is conducting an Environment Damage Assessment Study as per direction of CPCB and the Environment Damage compensation that will be computed after completion of the study will be taken care by OPGC.

Authorised Signatory

Pambhaiswarthy Nayak
Odisha Power Generation Corporation Ltd.

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Surenbra Prasad Dhal
Advocate
NOTARY, CUTTACK

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40. That, the averments made in Ground D of the Application are matters of record, hence need no reply.
41. That, the averments made in Ground E & F of the Application are misconceived and incorrect, hence denied. The height raising of the ash ponds are done as per design and drawing of technical institutes like IIT's and after getting due approval from OSPCB. Further the height raising of ash ponds saves precious soil which would otherwise be damaged if ash ponds are constructed on a new virgin area in place of height raising of the existing ash ponds. This is also a practice adopted by all Thermal Power Plants. The pleading of the applicant insisting on not to raise height of existing ash ponds is baseless
42. That, the prayers made in the application are without basis and contrary to the records, hence, the application and the prayers made therein are liable to be rejected.
43. That, in view of the aforestated facts mentioned, the allegations against Respondent No.14 being baseless and unreasonable, the prayers made against the Respondent No.14 cannot be granted, hence, it is prayed that the prayers made in respect of Respondent No.14 may be rejected by this Hon'ble Tribunal.

Authorised Signatory
Purushottam Prasad Dhas
Odisha Power Generation Corporation Ltd.

Purushottam Prasad Dhas

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Advocate
NOTARY, CUTTACK

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44. That, the Opp Party No.14 reserves the right to make such other submissions and file further reply/ additional affidavit/ application to bring on record such other facts and grounds as may be relevant for proper adjudication of this case before the Hon'ble Tribunal.
45. That the facts stated above are true to the best of my knowledge and belief and are based on official records.

Identified by:
A/C *Jayanta Mishra*
Cuttack
Date: *4.11.2024*

Authorised Signatory
Parthasarathi Panda
Deputy General Manager
Odisha Power Generation Corporation Ltd.

Pratik Acharya
(Through Advocate)

AFFIDAVIT

I, Parthasarathi Panda, S/o Mihir Prakash Panda, aged about 42 years, working as Senior Manager (EHS) in Respondent No.14, M/s Odisha Power Generation Corporation Ltd. having its office at: Zone-A, 7th Floor Fortune Towers, Chandasekhrpur, Bhubaneswar, Odisha do hereby solemnly affirm and state as under: -

1. That I am the Authorized Signatory of the Respondent No.14, M/s Odisha Power Generation

Adv-11
Advocate
CUTTACK



Corporation Ltd. I completely conversant with all the facts and circumstances of the present case therefore, competent to file the present Counter Affidavit on behalf of Respondent No.14.

2. That the above statements are true to the best of my knowledge as based on official records.

Authorised Signatory

Pankaj Kumar Pradhan
Odisha Power Generation Corporation Ltd.

DEPONENT

Identified by:
Jayadev Bhu
A/C

Cuttack

Date: *04.11.2024*

Pril Achy
(Through Advocate)



VERIFICATION

Verified on this the *4th* day of *November* 2024 at Bhubaneswar that the contents of the above reply affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

Authorised Signatory

Pankaj Kumar Pradhan
Odisha Power Generation Corporation Ltd.

VERIFICANT

Identified by:
Jayadev Bhu
A/C

Cuttack

Date: *04.11.2024*

Pril Achy
(Through Advocate)

The above named Deponent
Solemnly affirm on.....
Being Identified
by.....

P. S. Prasad Dhal
CM-11 reply

Surendra Prasad Dhal
Advocate
NOTARY, CUTTACK

~~2/2~~Annexure-A/14 Serial

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 71/2019 (EZ)

Maa Ambika Mahila Group and Ors. Applicant(s)

Versus

Odisha State Pollution
Control Board & Ors. Respondent(s)

Date of hearing: 17.02.2020

**CORAM: HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Applicant(s): Mr. Sankar Prasad Pani, Advocate

For Respondent(s): Mr. Abhishek Gupta and Mr.
Raushal Kumar, Advocates for
Respondent No. 1.
Mrs. Papiya Banerjee Bihani,
Advocate for Respondent No. 2.
Mr. Gora Chand Roy Choudhury,
Advocate for Respondent No. 3.
Mr. Subir Raut, AGA for Respondent
No. 4

ORDER

1. The Applicant in this case has alleged that the Environmental Clearance (EC) for the ash pond constructed by the Odisha Power Generation Corporation Limited (OPGCL) was granted without public hearing as

Authorised Signatory
Pankaj Kumar
Odisha Power Generation Corporation Ltd.

required under the EIA Notification, 2006. It is then contended that the ash pond is close to the Hirakud Reservoir violating the minimum distance criteria of 500 meters from the High Flood Level of the reservoir as prescribed under the EC and that the ash pond is close to human habitation being only about 48 meters causing threat to the life of the villagers.

3. Before proceeding further in the matter, a Committee was constituted comprising of (i) the District Collector, Jhasugura District and, (ii) the State PCB and directed to inspect the area in question, verify on the factual aspects and to submit a report. It was made clear that in the event of any infraction, the authorities were at liberty to take action against the OPGCL, Respondent No. 1, in accordance with law.

4. Pursuant to the above direction, report has been filed by the Committee. Point wise factual position in relation to the allegations has been set out by the joint Committee is stated below:

“Point wise factual position/facts of the allegations as verified by the joint committee is furnished here under:

<i>Sl No.</i>	<i>Petition Points</i>	<i>Observations</i>
<i>1</i>	<i>Environmental Clearance (EC) for the Ash</i>	<i>a) OPGC Ltd. had submitted a proposal vide letter no. 2787iWE</i>

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 Odisha Power Generation Corporation Ltd.

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<p>Pond was granted without holding public Hearing as required under EIA Notification, 2006</p>	<p>dated 16.08.2007 for grant of environmental clearance (EC) for setting up of a 2X660 MW coal based thermal power project as an expansion project of its existing capacity of 2X 210 MW (Annexure-1).</p> <p>b) In the said application (Form 1), the project proponent had stated that around 130 Ha additional land will have to be acquired for new ash pond. (Annexure-2).</p> <p>c) The EIA study report was carried out by the consultant, M/S DCPL, Kolkata covering 10 km radius of the project site. As per the report, the ash pond area was proposed to be acquired near existing Ash ponds of units 1 & 2 of OPGC.</p> <p>d) On 15.05.2008 notice (Annexure-3(i)) was issued to general public by OSPCB for public hearing regarding OPGC expansion project, scheduled to be held at Gram Panchayat Head Quarter of Village Telenpali (located at approx. distance of 1.5 km from project site and approx. 7 km anal distance from the Tilia ash pond site) on 24.06.2008, at 11 AM. Accordingly, the public hearing was held on 24.06.2008 with participation of the public from project impact area (10km radius from the project site). (Annexure-3(ii)).</p> <p>Later, during consideration of the proposal, the Expert Appraisal Committee (EAC) after going through the location of the proposed Ash Pond</p>
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Authorised Signatory

Ambarish Chandra
Odisha Power Generation Corporation Ltd.



		<p>area and the quantum of ash to be generated from the proposed expansion project, asked OPGC vide Letter No J-13011/59/2008-IA.11 (T), Dtd 19.01.2009 to re-examine the possibility of shifting the ash pond another location by maintaining 500 mtr distance from reservoir HFL and to furnish details. Thereafter, OPGC, vide its letter No. 704iWE dated 09.03.2009 communicated to MOEF regarding location of its ash pond near village Tilia, which is about 14km by road (approx. 6.5 KMs aerial distance) from the proposed project site admeasuring an area Ac.361. The proposed area is 600 mts away from HFL of Hirakud Reservoir. The site is selected to avoid displacement of human settlement and no involvement of forest land. (Annex u re -4).</p> <p>e) OPGC had also submitted administrative approval from Dept. of Energy, Govt of Orissa, for acquisition of the said land for ash pond purpose.</p> <p>f) In response, the EAC in their 58th meeting MOM November 10-11, 2009, recorded The Committee also discussed the issues raised in the public hearing and response made by the project proponent. The main issues were regarding rehabilitation programme, health facilities, technical training, employment of locals, plantation outside plant premises, dust generation from</p>
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Authorised Signatory
Pankaj Samal - Noida
 Odisha Power Generation Corporation Ltd.



		<p>ash pond during summer, development of villages etc. The project proponent submitted its response to issues raised in the public hearing and action plan for implementation of the agreed issues. The Committee recommended the project for environmental clearance" with condition. "No additional land for new ash pond or High Concentration Slurry Disposal (HCSD) area shall be allowed within 5.0 KM of catchment of Hirakud Reservoir. (Annexure-5).</p> <p>g) Then OPGC requested EAC to consider the distance of 500 meter from HFL of Hirakud Reservoir with the logical explanation of nonviability of 5km distance criteria. EAC in their 60 meeting examined the case and agreed on OPGC's request of 500 meters distance of the proposed Ash Pond area from HFL of Hirakud Reservoir with note "the distance criteria of 5.0 Km have been inadvertently recorded and should have been 500m." Thereafter Environment Clearance (EC) was granted for the said project on Dtd 04.02.2010 with incorporation to acquire land for new Ash Pond keeping 500m from HFL of Hirakud Reservoir. Further in the EC, it was stipulated to comply with HDPE/LDP lining, safety measures to protect the ash dyke from getting breached, monitoring of heavy metals around the ash</p>
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Authorised Signatory

Purushottam Kumar

Odisha Power Generation Corporation Ltd.



		<p>pond area to ensure that ground water quality is not adversely affected. (Annexure-6).</p> <p>EAC of MoEF & CC, Govt of India is the sole authority to examine and decide the requirement of fresh public hearing. During the EC grant process. EAC had carefully examined the environmental impact and considered required risk mitigation measures of the ash disposal area and had not felt the requirement for fresh public hearing. Moreover, because of relocation of ash pond, no additional environmental impact had been envisaged.</p>
2	<p>The Ash Pond is close to the Hirakud reservoir violating the minimum distance criteria of 500 meters from the High Flood Level of Reservoir prescribed under the EC.</p>	<p>The industry has acquired 361 acres of land out of which the ash ponds & its recycling facilities have been constructed over 312 acres of land. Balance 49 acres of land towards reservoir side has been left unutilized. The Ash Pond where ash is going to be disposed is located at a distance more than 500 meters from HFL of Hirakud reservoir.</p> <p>This has been verified from the map of ash pond location superimposed on Google Earth (Annexure7). and construction drawing of the Ash Pond prepared by Water and Power Consultancy Services Limited, Govt of India (WAPCOS) in the month of July 2017. The site location was also physically inspected (Annexure-8).</p>
3	<p>It is alleged that the Ash Pond is closed to Human habitation being only about 48</p>	<p>There is no specific guideline and no stipulation in EC and Consent to Establish on distance of ash pond from nearest human habitation. However, the</p>

Authorised Signatory
Pavlyiswarajy Moha
 Odisha Power Generation Corporation Ltd.



	<p><i>meters causing threat to the life of the villagers</i></p>	<p><i>industry has been stipulated to ensure adequate safety and environmental protection measures like (i) Lining the entire ash pond with HDPE membrane to prevent ground water contamination (ii). adequate safety measure in construction of ash dykes to prevent breach of ash dykes, (iii). zero discharge (iv). ash water recycling & reuse (v). dust suppression to control fugitive emission and (vi). HCSM method for fly ash disposal to reduce hydrostatic pressure on dyke walls, which has almost no risk of breaching. It was also verified that the ash pond has been designed by WAPCOS, Govt of India and its safety & stability has been vetted by IIT, Madras. The bunds have been additionally stabilised with Rock toe and toe drain & garland drain to prevent any chances of breaching and affecting nearby habitation (Annexure-9). The construction of phase-1 of the ash pond has been completed and Phase 2 is now under construction (around 70% construction completed) following the approved design criteria in line with safety measures stipulated in EC and CTE."</i></p>
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Authorised Signatory
Pambhaisanabji Kato
 Odisha Power Generation Corporation Ltd.

5. The aforesaid report clearly indicates that the proposal for expansion of the project had been initiated by the OPGCL on 16.08.2007, notice for public hearing was issued on 15.05.2008 and the public hearing took place on 24.06.2008. The location of the ash pond is about 14 kms by road and at an aerial distance of approximately

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- 6.5 kms from the proposed project site admeasuring about 361 acres and is also 600 metres away from High Flood Level of Hirakud Reservoir.
6. 500 meters distance from the High Flood Level of Hirakud Reservoir was agreed upon to be maintained as 5 kms had been inadvertently recorded earlier instead of 500 metres.
 7. We need not go further into details of other findings as the foundational allegations levelled in respect of the project have been found to be incorrect in view of the report referred to above.
 8. The objection to the inspection report of the Committee filed by the Applicant in the form of a rejoinder affidavit has been perused but we do not find any substance in the objection taken. Accordingly the same is rejected.
 9. Moreover, the project proposal was submitted way back in the year 2007, EIA studies undertaken in 2008 and the EC granted in 2010. It is too late in a day for the Applicant to raise the *vires* of the EC at this stage.
 10. Thus, the O.A. stands disposed off.

Authorised Signatory
Anil Kumar Singh
Odisha Power Generation Corporation Ltd.

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11. No order as to costs.

S.P. Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

Siddhanta Das, EM

17th February, 2020
O.A. 71/2019 (EZ)
avt



Authorised Signatory
Panigrahi
Odisha Power Generation Corporation Ltd.

Siddhanta

24

Annexure-B/14 Sent

OFFICE OF THE SUPERINTENDING ENGINEER,
MAIN DAM DIVISION, BURLA
AT/PO - BURLA, DIST.SAMBALPUR (ODISHA) 768017
Email Id : semaindamdivn@gmail.com

No. 13569 (WE)

/Dated the, 11.12.2023

To

The Addl. Chief Engineer,
Hirakud Head Works & Addl. Spillway Circle, Burla.

Sub:- Breaking of Ash Pond of OPGC, Banharpali.

Sir,

In inviting a kind reference to the subject cited above, it is to inform that Ash Pond of OPGC Ltd. has been breached in village Sardhapali on date 09.12.2023.

It is ascertained from local enquiry that, the bund of Ash Pond opposite to the reservoir peripheries has been breaking about 30-40 m length. The Ash is accumulated at the cultivation field opposite to the reservoir.

The area has been closed by the OPGC authority due to law and order situation and nobody allowed to enter into the breach site.

Our Executive Engineer Mr. Prince Kumar could not visited the site. I have contacted with the Plant Manager Mr. Sudhakar Swain, who was also adviced to visit the site after one or two days. He assured that work is being taken up on war footing basis and no Ash water is flowing into the reservoir. It is being contained on the opposite site of the reservoir at the cultivation field. The restoration work is going on war footing basis.

This is for favour of kind information and necessary action.

Encl:- Photographs 3 Nos.

Yours faithfully,

[Signature]
11.12.2023
Superintending Engineer
Main Dam Division, Burla

Memo No. 13570

/Dated : 11.12.2023

Copy submitted to the Chief Engineer & Basin Manager, Mahanadi Basin, Burla for favour of kind information and necessary action.

[Signature]
11.12.2023
Superintending Engineer,
Main Dam Division, Burla

Authorised Signatory
[Signature]
Parag's orally Parag's
Odisha Power Generation Corporation Ltd.

~~XXXX~~

OFFICE OF THE SUPERINTENDING ENGINEER
MAIN DAM DIVISION, BURLA
AT/PO- BURLA, DIST.SAMBALPUR (ODISHA) 768017
Email Id: semaindamdivn@gmail.com

No. MDD/340 (WE)

/Dated: 08.01.24

To

The Chief Engineer & Basin Manager
 Mahanadi Basin, Burla

Sub: - Breaking of Ash Pond of Odisha Power Generation Corporation (OPGC), Banaharpali
 Ref- Your good Office Letter No. - 5910 dated 20.12.2023

Sir,

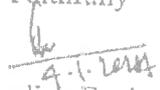
With reference to the Letter & subject cited above, it is to intimate that Ash Pond of Odisha Power Generation Corporation (OPGC) has been breached in village Saradhapali on dated-09.12.2023. The site was earlier visited by EE, Legal Cell and it was informed vide this Office Letter No. 2421(we) dated 19.12.2023 that the breach is opposite to the Hirakud Reservoir and there is no inflow of ash into Hirakud Reservoir. The site was again visited by the SE, Main Dam Division, EE, Legal Cell and AEE, Revenue Collection subdivision on dated 03.01.2024 to verify the progress of restoration work. The restoration work was under progress and there was no more leakage of ash to any adjacent land. The breach has been closed with the help of gunny bags and earth (photographs enclosed).

Further, the industrial authorities have informed that the restoration work will be completed within 2 weeks. In this connection, it is further intimated that the breach has been occurred in the opposite side of reservoir and this is no scope of entry the ash slurry in to the reservoir. Some photographs enclosed for kind proposal.

This is for your kind information & necessary action.

Encl: As Above

Yours Faithfully


 Superintending Engineer
 Main Dam Division, Burla
 Dated. 08.01.24

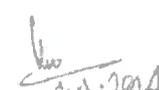
Memo No. 341

Copy submitted to the Additional chief Engineer, Hirakud Dam Circle, Burla for favour of information and necessary action.


 Superintending Engineer
 Main Dam Division, Burla
 Dated. 08.01.24

Memo No. 342

Copy forwarded to the Assistant Executive Engineer, Revenue Collection Sub-Division, Burla for favour of information and necessary action.


 Superintending Engineer
 Main Dam Division, Burla

Authorised Signatory

Per  Odisha Power Generation Corporation Ltd.

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**OFFICE OF THE SUPERINTENDING ENGINEER
MAIN DAM DIVISION, BURLA
DIST: SAMBALPUR (ODISHA) 768017
Email Id: semaindamdivn@gmail.com**

Letter No 2229 (WE) Date: 29.02.24
To

The Inspector-in-Charge,
Banharpali Police Station
Dist: Jharsuguda

Sub: Regarding site visit of the spot & opine the causes of breach of ash pond-C, OPGC Ib Thermal Banharpali whether the Hirakud Reservoir was affected

Ref: Office Letter No 760 (we) dated 23.02.2024 of CE & BM, Mahanadi Basin, Burla

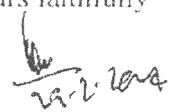
Sir,

With reference to subject cited above, it is to intimate that the ash pond breach site was visited by the official of the Water Resource Department on dated 18.12.23 and 03.01.24. The exact reason of breaching of ash pond could not be ascertain however there is no affect to water of Hirakud Reservoir as the breach is on opposite side of the Reservoir. The same has been also intimated to Additional Chief Engineer, HHW & AS and Chief Engineer & Basin Manager, Burla vide letter no 13569 dated 11.12.23 and letter no 340 dated 8.01.24 (Copy enclosed).

This is for your kind information and necessary action.

Yours faithfully

Encl: As above

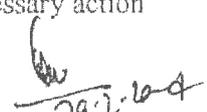

Superintending Engineer
Main Dam Division, Burla

Memo No 2230 (WE) (2)

Dated: 29.02.24

Copy submitted to Chief Engineer & Basin Manager, MB, Burla / Additional Chief Engineer, Hirakud Dam Circle, Burla for favour of kind information and necessary action

Encl: As above


Superintending Engineer
Main Dam Division, Burla

Authorised Signatory
Burla
29.02.24



E-mail: cto17category@ospcboard.org
Website: www.ospcboard.org

STATE POLLUTION CONTROL BOARD, ODISHA

[DEPARTMENT OF FOREST ENVIRONMENT & CLIMATE CHANGE, GOVERNMENT OF ODISHA]

Paribesh Bhawan, A/118, Nilakanthanagar, Unit-VIII,

Bhubaneswar 751012

No. 3113 / IND-I-CON -104

Dt. 06.03.2024

By Speed Post / Email

To

The Director (Operation)
M/s. OPGC Ltd.
1b Thermal Power Station, Banharpali
Jharsuguda-768 234

Sub : **Compliance to the recommendations of the Joint Inspection Report –Reg.**

- Ref : i) Letter of CPCB vide No. IPC-II/TPP/PI-20/4/2021/, dtd. 30.01.2024.
ii) Letter of MoEF & CC vide No. F. No. 01/3/2023-HSM dated 08.01.2024
iii) Joint inspection report vide No. 317, dtd. 28.02.2024.

Sir,

With reference to the subject cited above, this is to say that as per recommendation of CPCB vide its letter under reference and the matter was raised by Sri Sureh Ch. Pujari, Hon'ble MP, Lok Sabha regarding breach of your ash pond and flow of ash/contaminated water into agricultural fields, a joint inspection has been carried out on dtd. 27.02.2024 with a team comprising of Regional officer, SPCB, Jharsuguda, Tahasildar, Lakhanpur and CPCB RD- Kolkata to investigate & verify the breach site of the ash pond, affected nearby agricultural field & remedial measures taken by your unit (copy of IR enclosed). The copy of the Inspection report has already been communicated to CPCB, Delhi for further course of action. As per the report of the joint inspecting team, they have recommended several action points to be addressed by your unit.

You are therefore, requested to submit point-wise action taken report on the recommendation of the joint inspecting team to this office within 15 days for taking further course of action at this end.

Encl: As above

Yours faithfully,

[Signature]
06/3/24
Chief Env. Engineer

Memo No. 3114 /Dt. 06.03.2024

By Email

Copy forwarded to the Regional Officer, SPC Board, Jharsuguda for information and necessary action.

[Signature]
06/3/24
Chief Env. Engineer

Authorised Signatory
 Ambikapuram
 Odisha Power Generation Corporation Ltd.



Joint Inspection Report on Breach of Ash pond of Ib Thermal Power Station of M/s OPGC Ltd., Dist-Jharsuguda, matter raised by Sri Suresh Pujari, Hon'ble M.P., Lok Sabha

As per the communication received from CPCB, Delhi regarding the matter raised by Sri Suresh Pujari Hon'ble M.P., Lok Sabha about breach of Ash pond dyke of M/s OPGC Ltd, a joint inspection was carried out on 27.02.2024 by the following officials:-

1. Er H.K. Nayak, Regional Officer, SPCB, Odisha, Jharsuguda
2. Sri Sadakara Kumbhar, Tahasildar, Lakhanpur
3. Sri Sandeep Roy, Scientist-D, CPCB, RD, Kolkata
4. Smt. A. Ekka, Dy. Env. Scientist, SPCB, Odisha, Jharsuguda

The following officials from M/s OPGC Ltd were present during inspection:-

1. Mr. Manas Ranjan Rout (MD I/C & Occupier)
2. Mr. Sukanta Mohapatra (Sr. VP Operations)
3. Mr. P. Koreshu Patra (GM Projects)
4. Dr. Ratikanta Das (Head HR & Admin)
5. Mr. Sitaram Sahu (Head EHS)
6. Mr. Parthasarathi Panda (Sr. Manager Environment)

About the Thermal Power Plant:

Ib-Thermal Power Station (ITPS) of M/s OPGC Ltd is a Coal Based Thermal Power Plant having 4 units for power generation i.e. Unit-1&2 (2x210MW) and Unit-3 &4 (2x660 MW). The plant was commissioned in the year 1994 and in phased manner capacity has been enhanced. Consent to Operate of the industry is valid upto 31.03.2024.

Ash Handling System:

Unit -1 & 2

Unit -1 & 2 has coal fired boilers of 690 TPH each with electric power generation capacity of 210 MW each. The coal consumption in these two units is 8000 TPD and the total ash generation is 3200 TPD. The dry ash from the silo is utilized for brick manufacturing and supplied to asbestos units. The remaining ash is sent to ash ponds in Lean slurry system. The ash pond area is divided into 3 lagoons namely Ash pond-A, Ash Pond-B & Ash Pond-C

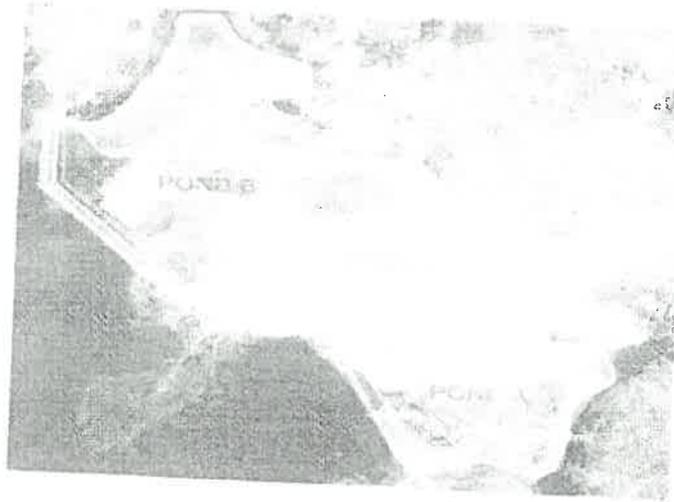
Ash pond-A has an area of 150 Acre with ash holding capacity of 67 lakh MT. As informed, Ash Pond-A was not in use since 2021.

Authorised Signatory
Pamf. Suresh Pujari
 Odisha Power Generation Corporation Ltd.

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Ash pond-B has an area of 242 Acre with ash holding capacity of 128 lakh MT. Ash Pond-B was exhausted and not in use since 2019.

Ash pond-C is situated in between Pond -A & B, it has an area of 115.92 Acre with ash holding capacity of 88 lakh MT. During the day of incident, Ash Pond-C was in use. However, after breach in peripheral section (northern side) of Ash Pond C, the ash disposal had been stopped in the Ash Pond C and disposal was being done at Ash Pond A.



Google image of Ash Pond system

The decanted water from each pond is collected at its respective Primary Settling Tank (PST) of 5 Acre each and then it is transferred to common Secondary Settling Tank (SST). The clear water from the SST is recycled back to the plant for slurry making purpose as ash water recirculating system maintaining the Zero Liquid Discharge.

Occurrence of Incidents:

On 09.12.2023 at around 8.30 AM, Northern Dyke of Ash Pond-C (initially 5m width) had breached and considerable amount of ash has spilled into nearby fallow land and agricultural land. Subsequently, the width of the breached portion increased to 20 m. As per the survey carried out by Revenue Department, around 154.24 Acres of area has been affected due to ash spillage/flow.

Authorised Signatory
Parbhakar Singh
 Odisha Power Generation Corporation Ltd



remained on 10.12.2023 to ascertain the situation. Based upon that report, a direction U/s. 33A of Water (PCP) Act, 1974 and U/s. 31A of Air (PCP) Act, 1981 was issued to M/s OPGC Ltd on dtd. 11.12.2023 with some directions to comply.

In compliance to this, the industry has submitted a status/progress report to OSPCB (copy of the same enclosed).

They have also submitted a short term and a long term action plan for restoration of breached portion of Pond-C as well as overall ash management.

Recommendation:

- 1) The industry shall submit a long term and short-term action plan for disposal of fly ash and bottom ash from the existing as well as proposed units.
- 2) The industry shall take utmost care and precaution in restoration of the breached portion of Pond-C under the guidance and supervision of experts in the field of Safety and Stability of ash dyke.
- 3) The ash shall be disposed off in the ash pond uniformly by providing discharge points at uniform intervals and the discharge points shall be rotated at constant interval, so as to reduce the thrust on any side of embankment and to maintain uniform free-board throughout the ash pond.
- 4) The industry shall prepare SOP for stability, safety, operation, maintenance & inspection of ash pond area and embankment & submit a copy to the concerned authorities for future verification.
- 5) The industry shall ensure by providing bund at suitable location to prevent the flow of ash water from the affected spread area into the reservoir.
- 6) The industry shall provide adequate number of piezometers in Pond-A & C, preferably online piezometers.
- 7) The industry may be directed to install AAQMS at the strategic locations near to the affected areas till completion short term and long term activities. The report of the same shall be submitted to OSPCB & CPCB on monthly basis.
- 8) It shall also carry out ground water quality monitoring at affected areas till completion short term and long term activities. The report of the same shall be submitted to OSPCB & CPCB on monthly basis.
- 9) The industry shall provide accessibility to the toe drain area, so as to verify any flow of sediment in the drain.
- 10) The industry shall take utmost care to prevent any breakage / leakage in the ash slurry pipeline preferably in reservoir portion. There should be regular inspection of pipeline corridor to avoid such situation.

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- 11) The industry shall carry out comprehensive ground water contamination study in and around the ash dyke and now in the affected area.
- 12) Minimum free-board shall be maintained in all ash ponds as per the design of the ash pond in order to avoid overflow of ash slurry to nearby areas.
- 13) The industry shall come out with a plan to switch over to HCSD system from lean slurry disposal system in ash pond -A,B & C to conserve the water.
- 14) The periphery drain around ash pond -A,B & C shall be regularly cleaned.
- 15) The industry shall carry out hydrogeology study by reputed institution like IIT or NIT around ash pond A,B & C to ascertain the stability of the dykes. The report shall be submitted to the concerned authorities.
- 16) The unit shall submit progress report of day-to-day restoration work.

H.K. Nayak
2.8.24

(H.K Nayak)

Regional Officer, SPCB, Odisha, Jharsuguda

S
25/2/24

(Sandeep Roy)

Scientist D, CPCB, RD, Kolkata

Sadakara Kumbhar
28.2.2024

(Sadakara Kumbhar)

Tahsildar Lakhanpur, Odisha

Anusha Ekka
28.02.2024

(Anusha Ekka)

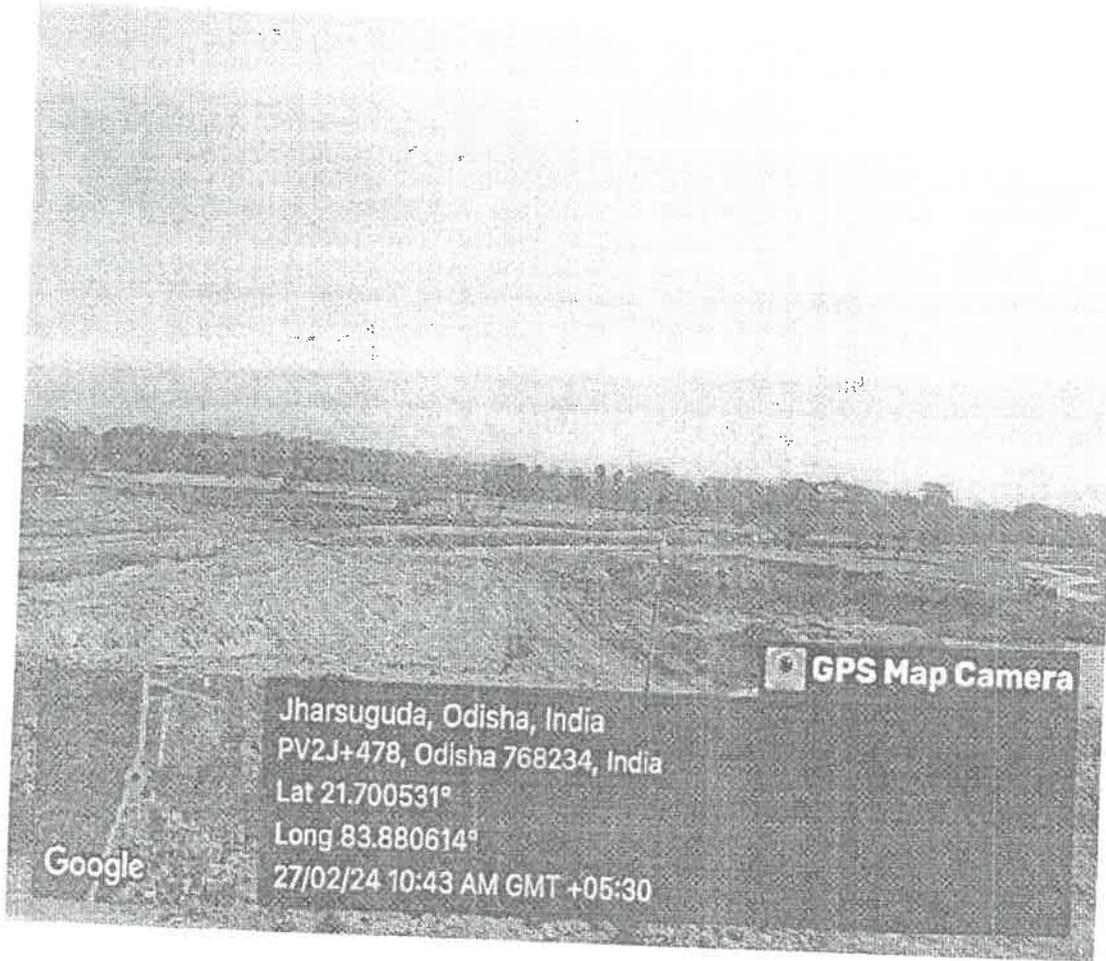
Dy .Env. Scientist, SPCB, Odisha, Jharsuguda

Authorised Signatory

Parlhasarathy Panda
Odisha Power Generation Corporation Ltd.

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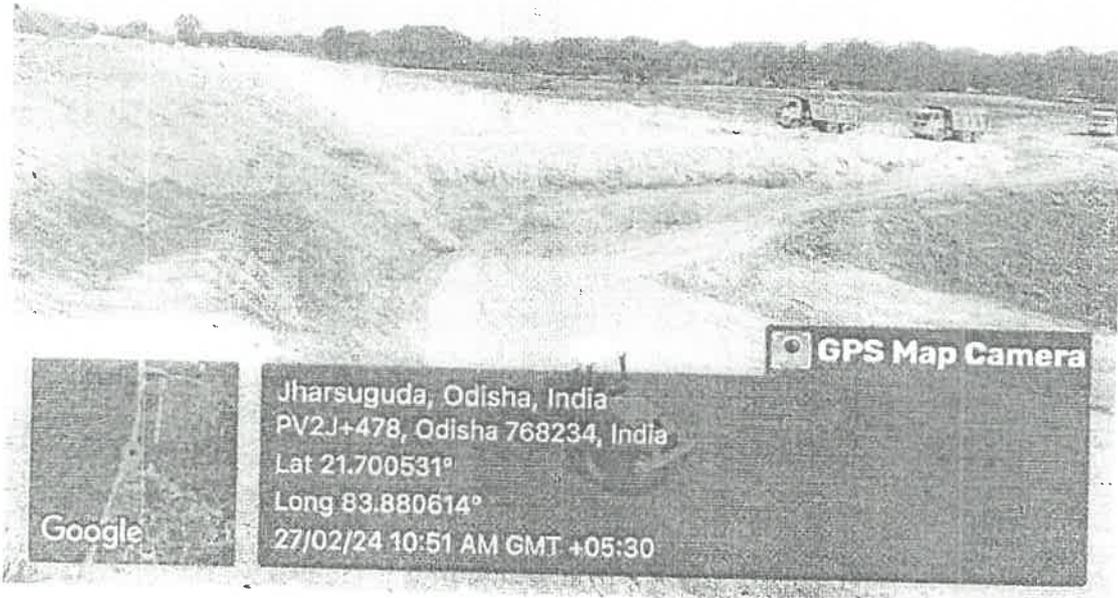
Photographs



Authorised Signatory
Pamfaisoravali Panda
Odisha Power Generation Corporation Ltd.

Affected area (Northen side of Pond C)

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Reclamation of Pond and affected area

Authorised Signatory
Pamfalsaralki P. S. S.
Odisha Pradesh...

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View of Hirakud Back water (Southern side of the Pond)

Authorised Signatory
Pankaj Kumar Mishra
Odisha Power Generation Corporation Ltd.

6/6

Joint Inspection Report in the Hon'ble NGT matter OA No – 89/2024/EZ (Gopinath Majhi Vs State of Odisha) order dated 02/05/2024

As per the direction of Hon'ble NGT in the matter of OA No- 89/2024/EZ (Gopinath Majhi Vs State of Odisha) order dated 02/05/2024, a committee was constituted comprising of the following members:

1. Senior Scientist, Central Pollution Control Board;
2. Senior Scientist, Ministry of Environment, Forests and Climate Change (MoEF&CC), regional officer Bhubaneswar;
3. District Magistrate, Jharsuguda or his representative Officer not below the rank of Additional District Magistrate (A.D.M).

Committee was directed to visit the site, and submit the report in regards to the allegation. Accordingly, the committee had its meeting via VC on 27th May 2024. It was decided to carry out the site visit on 12/06/2024. Following officials were present during the site visit.

1. Sh Sandeep Roy, Senior Scientist, Central Pollution Control Board;
2. Sh Sandeep Nandi, Senior Scientist, Ministry of Environment, Forests and Climate Change (MoEF&CC), Regional Office Bhubaneswar;
3. Sh. Brajbandhu Bhoi, Additional District Magistrate (General) Jharsuguda

The following officials from M/s OPGC Ltd were present during inspection.

1. Mr. Sukanta Mohapatra (Sr. VR Operations)
2. Mr. P. Koreshu Patra (GM Projects)
3. Dr. Ratikanta Das (Head HR & Admin)
4. Mr. Sitaram Sahu (Head EHS)
5. Mr. Parthasarathi Panda (Sr. Manager Environment)
6. Himansu Bhusana Behero (Sr. Manager PR/CSR/Land)

The Committee members gone through the allegations made in original Application. Following points are highlighted by the applicant in his application.

1. Breach of Ash Pond in few month of December, 2023 and spillage of ash in adjoining area.
2. Reclamation of affected area due to ash spillage and repairing work of ash pond.
3. Construction of ash pond to the proximity of Hirakud reservoir, a notified RAMSAR Site.

Observations on the day of inspection:

- I. The Ash Pond complex constituted of 3 Nos of Ash Ponds of which Ash Pond- A was commissioned on 31.08.2007, Ash Pond- B was commissioned on 03.06.1995 and Ash Pond- C was commissioned on 17.04.2017 . Thus, the ash ponds were commissioned before the MoEF & CC's notification of 19.08.2019 which states minimum distance of Ash Pond should be 500 m from HFL of larger water bodies.
- II. The breach incident had occurred on the Northern side of Ash Pond-C on 09.12.2023 at 8.30 AM. It was found that 20 m width of entire starter dyke along with raised embankment was washed-out. It was estimated by the industry that around 4.0 to 4.5 lakh tons of ash has been washed away into the nearby areas (154.24 Acre). As on date i.e. till 11.06.2024 around 4.2 Lakh MT of ash had been recovered and has been disposed back at Ash Pond-C. As informed the balance quantity of ash will be recovered within 7 -10 days of time period.
- III. It was found that the Pond-C was operational during the time of visit and the industry has all necessary safety measures as directed by OSPCB.
- IV. During visit, it was observed that the restoration and reclamation work of the affected and breached area has been completed up to RL 208 m and grass turffing on the downstream bund was in progress (Photograph enclosed). The committee members also visited periphery of the ash ponds (i.e. Ash Pond #A, B, C) as well as the backwater area of Hikalud reservoir side (Southern side of ash pond). Any type of ingress of Ash water/ Supernatant into brackish reservoir was not observed. The dyke restoration work has been completed as per recommendation, design & drawing of IIT Chennai. The design & drawing has been enclosed for reference.
- V. The industry has paid necessary compensation of amount Rs 53,98,400/- to the affected families and Rs 6,50,000/- to affected SHG group (copy enclosed).

Action Taken by the OSPCB: -

As soon as the information of breach in Ash Pond-C was received by the Odisha Pollution Control Board, a team from Head Office, Bhubaneswar along with the Officials of Regional Office, Jharsuguda visited the affected area on 09.12.2023 & the team remained on 10.12.2023 to ascertain the situation. Based upon that report, a direction U/s. 33A of Water (PCP) Act, 1974 and U/s. 31A of Air (PCP) Act, 1981 was issued to M/s OPGC Ltd on dtd. 11.12.2023.

In compliance of this direction, the industry has submitted a status/progress report to OSPCB (copy of the same enclosed).

They have also submitted a short term and a long term action plan for restoration of breached portion of Pond-C as well as overall ash management and reclamation of affected land area due to spillage of Ash.

Authorised Signatory
 Pankaj Kumar Behera
 Odisha Power Generation Corporation Ltd

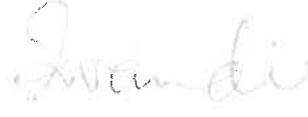
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Remedial Measures Taken by OPGC:

- 1) The industry has instantly initiated restoration of the breached portion of Pond-C under the guidance and supervision of expert from IIT Chennai. The drawings enclosed for reference.
- 2) The industry has prepared SOP for stability, safety, operation, maintenance & inspection of ash pond area and embankment.
- 3) The industry has installed AAQMS at Rengali village (towards affected Side). The photograph & monitoring data has been enclosed.
- 4) The industry has engaged FERI-SAS for carrying out an Environment damage assessment study. The study will be carried out in 3 seasons i.e. Pre-Monsoon, Monsoon & Post-Monsoon. The final study report will be available by 31st March 2025 & the Pre Monsoon report will be available by August 2024.


(Sandeep Roy)

Scientist D, Central
Pollution Control Board,
Kolkata


(Sandeep Nandi)

Scientist B, (MoEF&CC),
Regional office
Bhubaneswar


(Brajabandhu Bhoi)

Nodal Officer cum-Additional
District Magistrate (General),
Jharsuguda

Authorised Signatory
Pamfaisaraj - Per Ho
Orissa Power Generation Co.



FORM OF VAKALATNAMA

IN THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE BENCH, KOLKATA

Original Application No. 89/2024/EZ

Gopinath Majhi

... **Petitioner**

-VERSUS-

State of Odisha & Others

... **Respondent(s)**

KNOW ALL MEN BY THESE PRESENTS THAT BY THIS VAKALATNAMA

I, Parthasarathi Panda, aged about 42 years, S/o- **Mihir Prakash Panda**, at present working as Senior Manager (EHS) of the Respondent No. 14 i.e. **Orissa Power Generation Corporation Limited**, at ITPS, Banharpalli, Jharsuguda in the aforesaid Case do hereby appoint and retain **Shri Shakti Prasad Panda**, */, A. Acharya, C.K. Rout*.

, Advocate(s) to appear for me/us, in the above case and to conduct and prosecute (or defend) the same and all proceeding that may be taken in respect of any application connected with the same or any Decree or Order passed therein including all applications for return of documents or receipt of any moneys that may be payable to me/us in the said case and also in applications for Review in Appeals under Orissa High Court Order and in applications for Leave to Appeal to Supreme Court. I/We authorize my/our Advocate(s) to admit any compromise lawfully entered in the said case.

Dtd. 01.08.2024

Received from the executant(s)
satisfied and accepted as I hold
no brief for the other side.

Name: *hvs*
ADVOCATE *S.P. Panda*
En, No. *7/93*
Mobile No. *8842811511*
Accepted as above

Name: *Jyoti Acharya*
ADVOCATE *I.A. Acharya*
En. No. *0.421/14*
Mobile No. *7008696028*
Accepted as above

Authorised Signatory
Pankaj Choudhary
SIGNATURE OF EXECUTANT(S) *01/08/2024*
Odisha Power Generation Corporation Ltd.

ADVOCATE
En, No.
Mobile No.
Accepted as above

C.K. Rout
ADVOCATE *C.K. ROUT*
En. No. *0.798/16*
Mobile No.
Accepted as above