

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTH ZONE BENCH AT CHENNAI**

ORIGINAL APPLICATION NO: 23 OF 2017

IN THE MATTER OF:-

POOJA KUMAR

...APPLICANT

Versus

UNION OF INDIA & ORS.

...RESPONDENTS

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THROUGH



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Date: 07.12.2021

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**OBJECTIONS ON BEHALF OF THE APPLICANT TO THE REPORT OF THE
JOINT COMMITTEE**

MOST RESPECTFULLY SHOWETH:

1. That the above titled Application has been filed under Section 14 read with Section 15 of the National Green Tribunal Act, 2010 raising substantial question relating to environment arising out of the non-compliance of the conditions of the Clearances and consents granted by the Respondent Nos. 1 and 3 respectively due to the construction activities of Stage III of the North Chennai Thermal Power Station (NCTPS) in the existing green belt within the complex of the said Thermal Power Station.
2. That the abovementioned Original Application got tagged with Original Application No. 214 of 2017 (SZ) as both matters were pertaining to the same issue with respect to clearing of green belt of NCTPS.
3. That vide it's Order dated 27.01.2020 in the matter of O.A No.214 of 2017 (SZ), this Hon'ble Tribunal had constituted a Joint Committee comprising of Regional Office of MoEF&CC, Chennai, State Coastal Zone Management Authority and District Collector, Chennai to go into the allegations and to inspect the area in question and submit a factual and action taken report. The Joint Committee was given the following Terms of References (ToR):-

"12.To inspect the area in question and submit a factual and action taken report if there is any violation in respect of cutting down of trees in the proposed Green Belt of stage I and stage II and how many trees have been cut against the conditions imposed in the clearances without getting proper permission from authorities, whether, Environment Clearance provides for cutting of trees and also suggesting the remedial measures to remedy the situation.

13. They may also consider the question as to what is the extent of the plantation planted by the 10th respondent in compliance with the conditions imposed in Environmental Clearance for establishment of stage I and stage II and what is the survival percentage and whether any tree has been cut and removed from that area for this expansion which was not permitted by the Ministry of Environment, Forest and Climate and Change as it was mentioned in the Environmental Impact Report that it is a barren land. They shall also verify whether there is availability of 190 acres of barren land for establishment of stage III as mentioned by the project proponent in their proposal for obtaining the Environmental Clearance/Coastal Zone Clearance and if there is any violation what is the action to be recommended and what is the environment compensation that has to be recovered from the project proponent for such violations to restore the loss caused to ecology."

4. The Joint Committee has submitted it's Report in the tagged matter and the Applicant is submitting her Objections to the following observations of the committee as stated in the Report of the Joint Committee which is as follows:-

"

- 1) No trees have been cut/removed from the proposed green belt of Stage I and Stage II. However, some trees were fallen and uprooted in these areas. The green belt development work is inadequate and lot of vacant areas available for green belt development. It needs further improvements.
- 2) The Joint Committee observed that sufficient area is available for the establishment of Stage III.

- 3) No violations were noticed at the construction site of Stage III and therefore the question of Environment Compensation is not arising at this stage.
- 4) There are no National Parks, Wild life sanctuaries and other protected areas within 10Km radius and no mangroves were noticed at the site.
- 5) The site is 500m away from High Tide Line (HTL) of sea and 100m away from the HFL of canal and no CRZ violations were noticed during the visit."

5. That the Applicant wants to submit in response to the Joint Committee's

Report as follows that:-

- i. As per the EC dated 30.04.1987 accorded for the construction of NCTPS Stage I, it was stipulated that:

'Green belt should be raised all around the power plant'.

Further, condition No. 5 of EC dated 10.5.1996 accorded for the construction of NCTPS Stage II stipulated that:-

"A green belt should be created all around the power plant between the cooling water channel and boundaries of existing plant, around the ash pond area. A norm of 1500-2000 trees/ha should be adopted and the requisite infrastructure such as nursery and manpower etc should be ensured. For filling up of vacant spaces in the existing plant area, a phased joint programme involving the TNEB should be worked out and submitted to the ministry within three months, i.e by June 1996."

It is submitted that the greenbelt has not been uniformly developed all around the existing operational units of the NCTPS plant, and the said expansion activity for Stage III has lead to felling of several hundred trees which is apparent from the observation of the Committee where it notes that **"The green belt development work is inadequate and lot of vacant areas available for green belt development"**. It is

submitted that the committee does not take into account that inadequate green belt is a violation of the environmental clearance conditions accorded to Stage I and II with respect to development of green belt. The illegal felling of trees are in complete violation of not only the conditions of the EC but also the consent to establish and operate granted for the Stage I and Stage I of the project which required for development of Green Belt.

- ii. It is stated that both units (Stage I and Stage II) are operating without adequate green belt as required in EC's and Consents.
- iii. It is stated that the Committee has failed to clarify as to how many trees have been cut in violation of the conditions imposed in the clearances without getting proper permission from authorities for setting up Stage III of NCTPS. Instead, the committee makes a blanket statement that there is no violation noted in this case.
- iv. Committee's inspection report adopts a narrow view and gives a clean chit to the project proponent. It is portraying as if no present felling is being undertaken. It fails to takes into account that several hundred trees have already been felled down for construction of Stage -III of NCTPS.
- v. There is no assessment of felling of trees against the conditions stipulated in the environment clearances. This ought to have been done to comply with the directions of the Hon'ble Tribunal. Therefore, the directions of the Hon'ble Tribunal have not been complied with.
- vi. Committee does not consider the heavily wooded area that was felled down/cleared to prepare the site for the existing stage III of the power plant and wrongly notes that the site is barren. The Applicant has annexed google earth imagery pertaining to years

2011, 2015 and 2021 showing the extent of greenery cleared for setting up of Stage -III of NCTPS which are annexed as **ANNEXURE-1 (Colly)**.

- vii. Committee has not inspected the lack of green belt around the ash pond and no details of that are available, despite the clearances that stipulate the same. Google earth imagery pertaining to years 2015 and 2021 showing the lack of greenbelt around the ash pond is annexed as **ANNEXURE-2**.
- viii. It is submitted that the committee has not applied it's mind while carrying out the inspection and preparing the report. Hence, the report of this committee should be rejected and a fresh audit of compliance to environmental conditions and consents pertaining to greenbelts for Stage I and II of NCTPS need to be conducted.
- ix. It is stated that the Committee has failed to consider that the said expansion activity has lead to felling of several hundred trees from the only areas with substantial green cover within the plant premises. This also amounts to the violation of the conditions relating to development and maintenance of Green Belts as specified in the Environment Clearance dated 30.04.1987 and 10.05.1996 and consent conditions of consents granted under the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 dated 07.12.1993 08.08.2011, 19.03.2013_granted to the Stage I and Stage II of the Project respectively.
- x. The Committee failed to consider that in November 2016, the Respondent No. 5, upon reports of tiger sighting within the NCTPS Complex, discovered a vibrant ecosystem with a variety of species of flora and fauna existing in the green belt of the plant. It is submitted that the Stage III construction activities has

completely wiped out this vibrant biodiversity from the area as is apparent from viewing the Google Images.

- xi. The Committee failed to take into account that Respondent No. 4 had concealed the existence of rich flora and fauna while applying for its Environmental and CRZ Clearance and the Respondent No. 1 did not even verify the necessary facts while granting the Clearance for Stage III vide letter dated 20.1.2016.

It is therefore, stated that Prayers in the Original Application may be allowed

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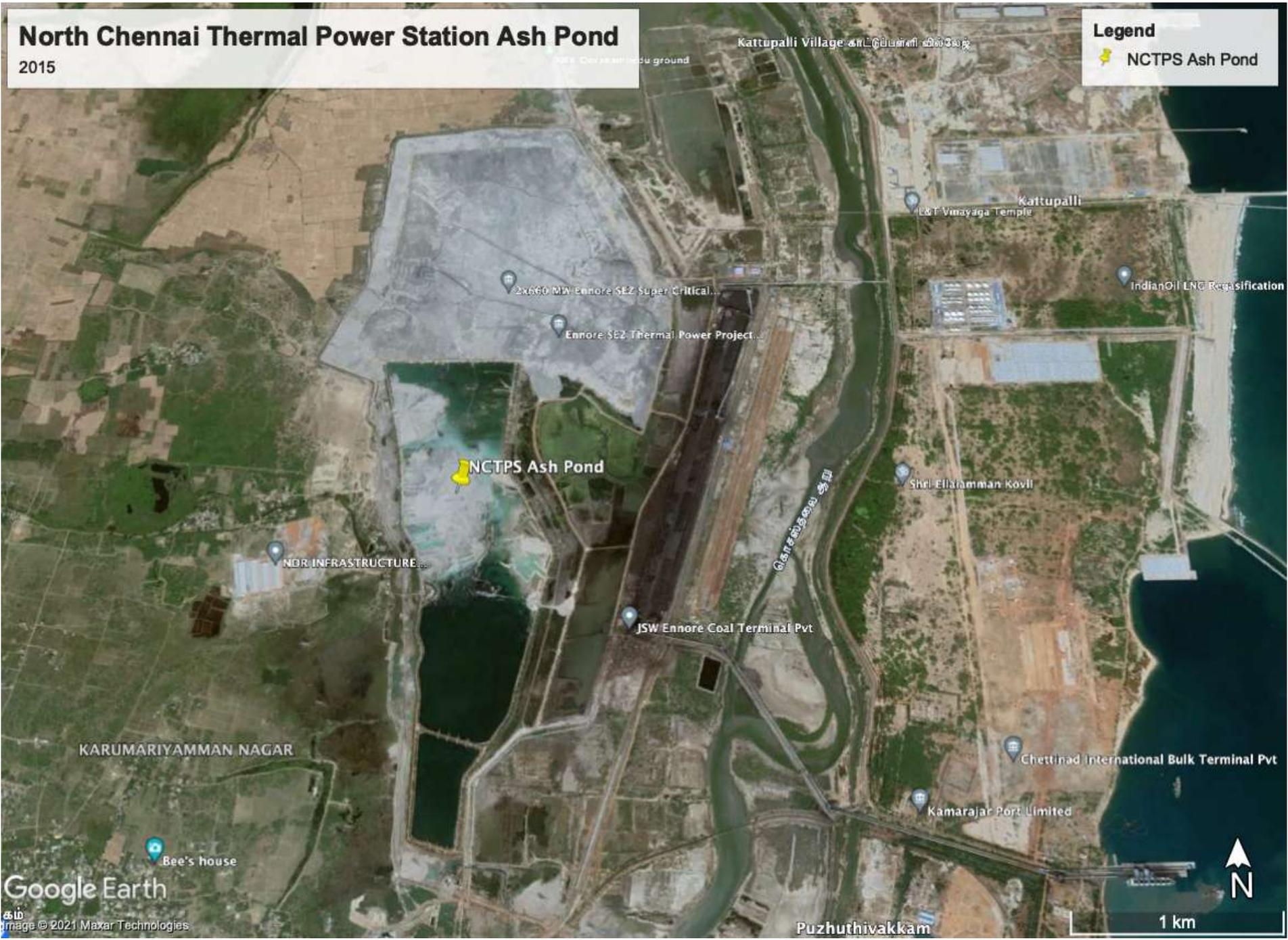
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