

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

I.A. No. _____/2020

in

ORIGINAL APPLICATION No. 57 OF 2017 (SZ)

BETWEEN:

Heritage Estate Apartment Owners Association

...APPLICANT

AND

Ministry of Environment and Forest and Ors.

...RESPONDENTS

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Place: Chennai

Date: 17/11/2020

Advocate for the Respondent No.3

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

I.A. No. ___/2020

in

ORIGINAL APPLICATION No. 57 OF 2017 (SZ)

BETWEEN:

Heritage Estate Apartment Owners Association

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AND

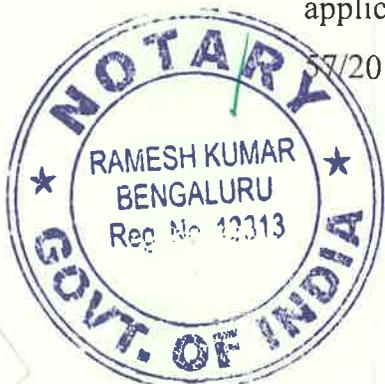
Ministry of Environment & Forest
And Others

...RESPONDENTS

**STATEMENT OF OBJECTIONS TO THE IA FILED BY THE
APPLICANT SEEKING AN INJUNCTION AGAINST THE
CONSTRUCTION OF THE POWER PLANT BY THE RESPONDENT
NO.3 AND FOR IMMEDIATE CLOSURE OF THE POWER PLANT**

I, Mr. D.R. Kabade, S/o R.Y Kabade, aged about 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, 82 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 3rd Respondent in the present proceedings, and as such I am well aware of the facts of the case and am competent to swear to this affidavit.
2. It is prayed that the Counter Statement filed by the Respondent No.3 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 OA 57/2017. The "blast" alleged by the Applicant, which is contested by the



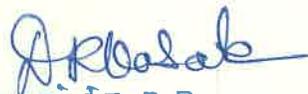

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Respondent No.3 as elaborated herein below, and the surrounding facts are in no way connected to the issues raised in OA No. 57/2017. The primary issue arising in the main application is whether Respondent No.3's project adversely impacts the bio-diversity of the Puttenahalli and Yelahanka Lake. The Applicant is seeking to conflate the issue in the Original Application 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 construction of the Power Plant by the Respondent No.3 and for immediate closure of the Power Plant 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.3 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.3. The gas turbine was being 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 23. 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.

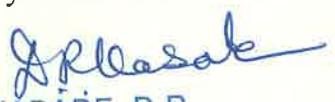
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5. It is submitted that 15 of the employees KPCL, BHEL and GE have sustained injuries and of which 3 employees have succumbed to the injuries. These were employees of the Respondent No. 4, employees of BHEL and GE who were commissioning Gas Turbine 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 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



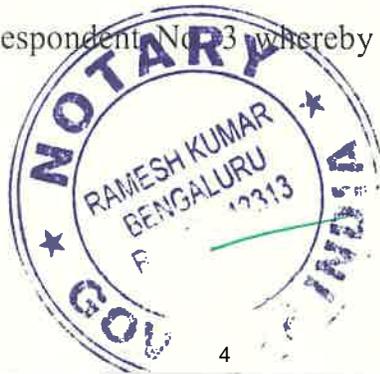

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only after the route cause analysis is completed by the subject matter experts and the cross faculty team set up for the purpose.

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 Applicant 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 Applicant 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.3 has issued a statement regarding the incident and the same is produced herewith as *Annexure R 24*. ✓
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.3 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 and give further directions about precautions to be taken and the same will be binding on the answering Respondent. The Applicant should not pre-empt the technical team having the required expertise from doing its duty to find the cause of the accident.

Para wise Traversal:

10. **Re Para 1:** It is submitted that there have been no actions or omissions on the part of the Respondent No.3 whereby it has failed to protect and



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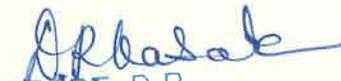
secure the lives of the residents of Yelahanka. It is also false to state that there has been any act or omission on the part of the Respondent No.3 whereby there has been a failure to protect the bio-diversity of Puttenahalli Lake and Yelahanka Lake, in going ahead with the proposed 1X370 MW Combined Cycle Gas Power Plant.

11. **Re Para 2 and 3:** It is false to state that the Environmental Clearance dated 01/09/2015 has been granted to the 3rd Respondent by the SEIAA is void ab initio. It is also false to state that the said environmental clearance was granted by the SEIAA without jurisdiction and incomplete violation of the mandate of the EIA Notification, 2006. It is submitted that the relief seeking to declare the Environmental Clearance dated 01/09/2015 was deliberately stuck out by the Applicant in the prayer in O.A. 57 of 2020 and therefore the same cannot be claimed by it now. Further an application to amend the pleadings in OA57/2017 has also been dismissed by this Hon'ble Tribunal.

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. 3. It is submitted that the averments of the Applicant have been based on false and unverified newspaper reports partly instigated by the Applicant themselves and therefore should not be given any credence by this Hon'ble Tribunal. As detailed above, the Respondent No.3 submits that there was a fire mishap which occurred and the same is thoroughly being investigated by the cross faculty 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 Applicant 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




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vicinity was the activation of the fire protection system at the site. The Applicant 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 Applicant is put to strict proof of all other averments in this paragraph.

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 Applicant Trust and publishing of unverified reports by the media. The Applicant 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 Applicant 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 few 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.3. It is false to state that there has been any direct bearing on lives or livelihood of people living in the vicinity of the Plant and that the same is a serious issue that needs to be addressed immediately

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 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



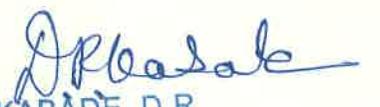

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has also passed an order prohibiting the BMTC to buy new Diesel buses and to shift to CNG powered buses to reduce pollution in Bangalore.

17. Therefore, the Power Plant having shifted from Diesel to CNG will have long term benefits and therefore the allegations of the Applicant are wholly baseless. Any injunction granted at the best of Applicants 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.3 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 Applicant 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 fire mishap within the Plant premises. Therefore, the story of a huge tragedy as weaved by the Respondent No.3 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 Applicant, in order to get an injunction preventing the further construction and commissioning of the power plant. There will be no cost to the lives of the residents of the surrounding areas or to the environment. There has been no leakage or spread of gas as alleged by the Applicant. Therefore there is no cause whatsoever for grant of an injunction against construction, commissioning or for closure of the said Plant. All other averments in this paragraph are denied as false.

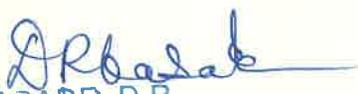



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19. **Re Para 9:** It is submitted that there has been no liquid discharge from the Power Plant of the Respondent No.3 into the surrounding areas. The Respondent No.3 is strictly abiding by the terms of the Consent for Establishment and the EC issued to it and is in the process of installing a Zero Liquid 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. It is false to state that there has been a continuous emissions by the Plant 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. There is no potential health hazard to the children or old people living in the vicinity. It is false to state that activities of the Respondent No.3 are causing grievous and irreparable damage and that the same would allegedly result in total annihilation of the surrounding environment and thereby endangered the lives and livelihood of the residence living in the vicinity of the power plant. It is false to state that these activities of the Respondent No.3 need to be stopped in the interest of protection of environment and lives and livelihood of the residents living in the vicinity of the power plant. The letter written by the Applicant to the CEO Karnataka Pollution Control Board complaining about high level noise is not within the knowledge of the Respondent No.3. It is false to state that there were high levels of noise emanating from the KPCL plant. All the claims made by the Applicant are absolutely without any evidence or proof.

20. It is submitted that the plant is established within an industrial area with several other industries operating around it. Notwithstanding the above, attributing any pollution caused in the area exclusively to the Power Plant of the Respondent No.3, especially when the same has not even been commissioned and when the Respondent No.3 is strictly abiding by a Zero Liquid Discharge Condition, is clearly false and being made with malafide intentions. The Applicant itself is a major pollutant in the area and has been continuing to discharge untreated effluents into the lakes in the area.



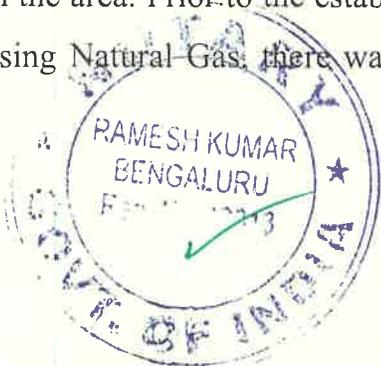

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There has been no effluent discharged into the Lake by the plant and no froth formation or pollution has been caused as alleged by the Applicant. All other averments in this paragraph are denied as false.

21. **Re Para 10:** This paragraph so far as it refers to matters on record requires no traversal.

22. **Re Para 11:** It is false to state that there has been an incident of gas leakage and blast at the Power Plant of the Respondent No.3. It is submitted that what occurred was a fire accident inside enclosure of the Gas Turbine and in the immediate vicinity around the same. The cause of the mishap can be properly ascertained only after carrying out the root cause analysis which is 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.3 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 and give further directions about precautions to be taken and the same will be binding on the Respondent. The fire incident within the Plant premises has absolutely no bearing on the present application and the same is being amplified only to make out a false case before this Tribunal. Further, in O.A.229/2020, the Hon'ble Tribunal suo moto, has taken up the matter of the fire accident based on an item in the New Indian Express Newspaper, and has set up a committee vide Order dated 20/10/2020, to examine the same. In light of the same, entertaining the prayer sought for in the present IA with respect to expanding the scope of the Committee set up on 19/08/2020 and 18/09/2020 would result in duplicity of the investigation and may lead to contradictory findings which would render the entire exercise futile.

23. **Re Para 12:** It is submitted that the Power Plant has been established in a declared industrial area and the same is one of many industries currently in the 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



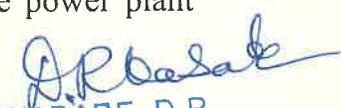

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was shut down and a more ecologically friendly Natural gas based power plant has now been set up in its place. The Diesel Gas(“DG Plant”) Plant was set up as early as 1993. It is submitted that at the time when the DG Plant was established, there was 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. It is false to state that the conditions imposed by the Environmental Clearance dated 01/09/2015 have not been considered and have been violated by the Respondent No. 3 due to which there has been gas leakage and a blast. It is false to state that the secondary safety and pollution control measures are not envisaged to handle emergency situations and that risk factors are high. It is submitted that the Respondent No.3 has taken all measures and precautions and is strictly abiding by the conditions of the Environmental Clearance. All other averments in this paragraph are denied as false.

24. **Re Para 13:** It is false to state that the establishment of the Power Plant at its present location i.e. within the vicinity of a residential area and the Puttenahalli Lake cannot be permitted. It is false to state that heat, air , noise and light pollution from the Power Plant will have a direct bearing on the people living in the vicinity of the Plant. It is also false to state that the EIA report is silent on these issues, that the power plant is a prohibited activity and that the same is being proceeded with in total disregard to environmental laws. It is submitted that all aspects and issues have been considered in the EIA Report and the same is a comprehensive. All other averments in this paragraph are denied as false.

25. **Re Para 14 and Prayer:** It is false to state that there has been any damage to the environment and loss of human lives and livelihood on account of the activities of the Respondent No.3 . The Applicant has shown no tenable reason for the issuance of an injunction against Respondent No. 3 not to carry out the construction and commissioning of the power plant




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and for closure of the same. Further the concerned expert bodies are already looking into the matter and will be issuing their report on the fire incident that took place within the Plant Premises. It is respectfully submitted that the fire incident does not have a bearing on the present Application as there has been no damage or injury caused to residents of the Yelahanka Area or to the environment around the Power Plant. Further, in O.A.229/2020, the Hon'ble Tribunal suo moto, has taken up the matter of the fire accident based on an item in the New Indian Express Newspaper, and has set up a committee vide Order dated 20/10/2020, to examine the same. In light of the same, entertaining the prayer sought for in the present IA with respect to expanding the scope of the Committee set up on 19/08/2020 and 18/09/2020 would result in duplicity of the investigation and may lead to contradictory findings which would render the entire exercise futile.

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

Place:

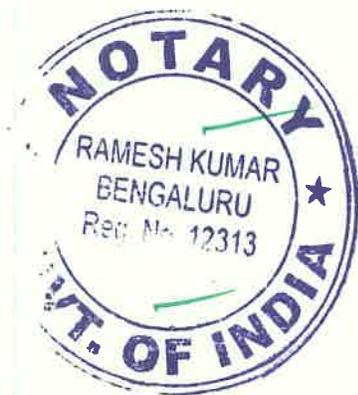
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Bengaluru
12/11/2021

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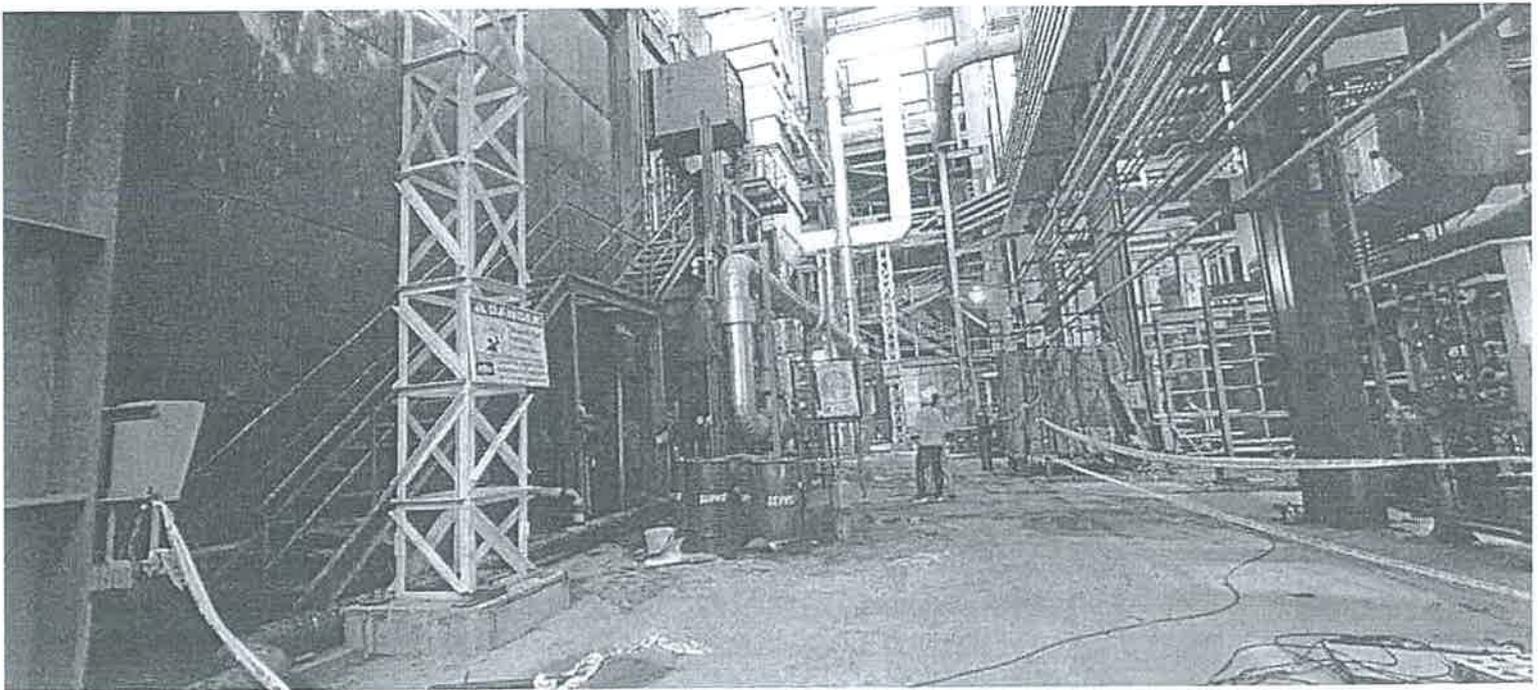


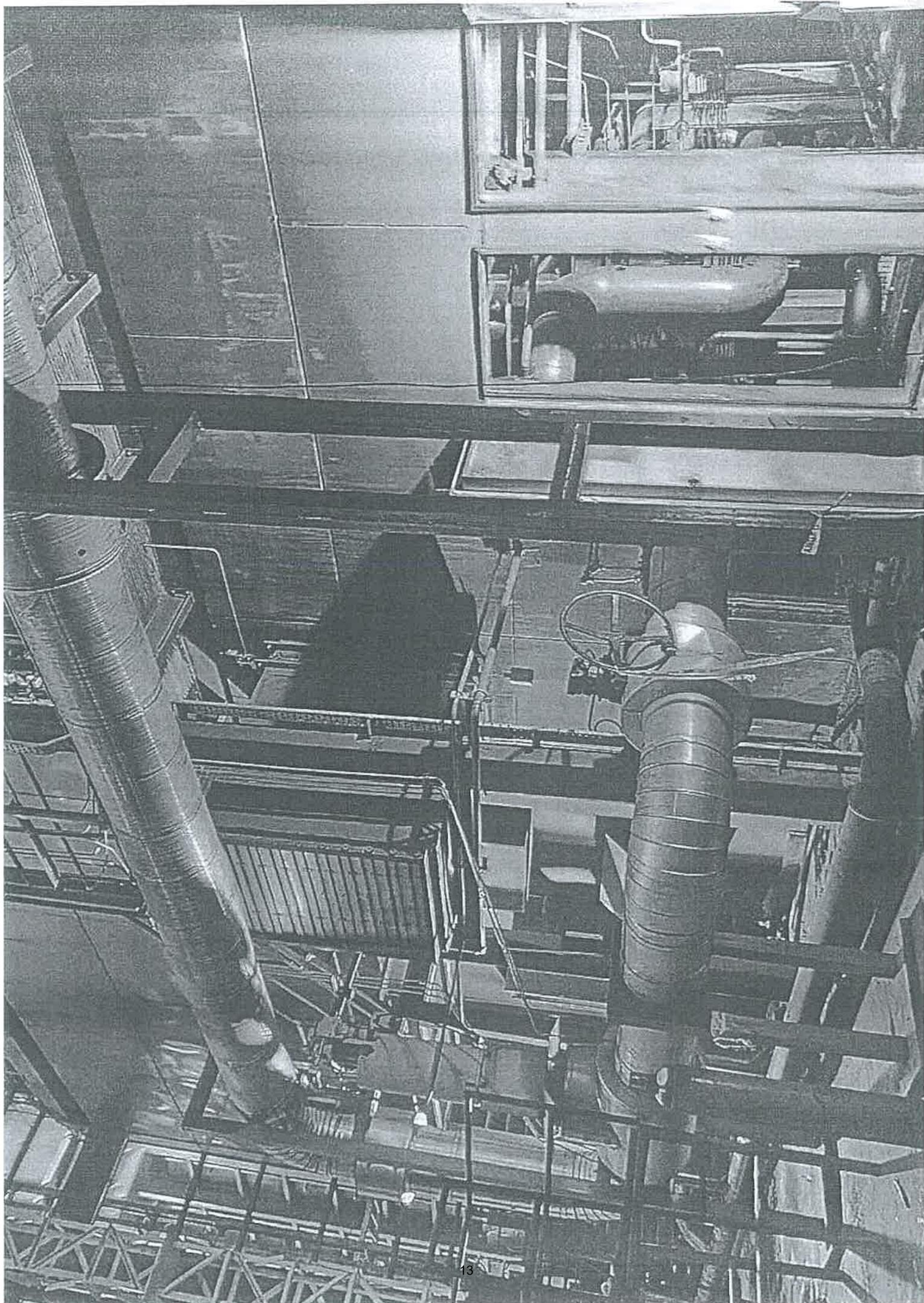
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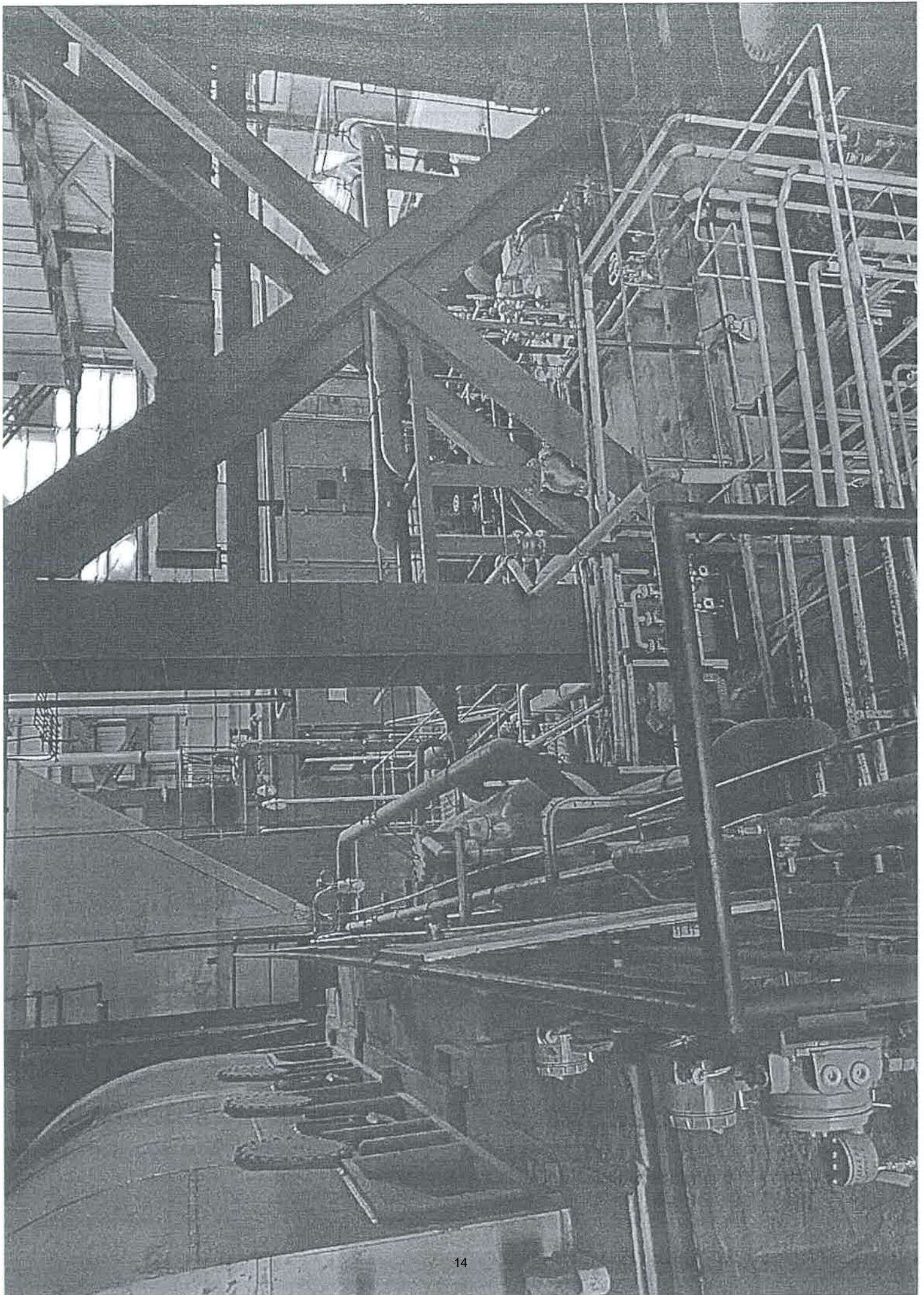
Sworn / Solemnly affirmed and signed before me
on this *12* day of *Nov* 202*1* at Bengaluru
N.R.SI. No. *12313* Corrections: *None*

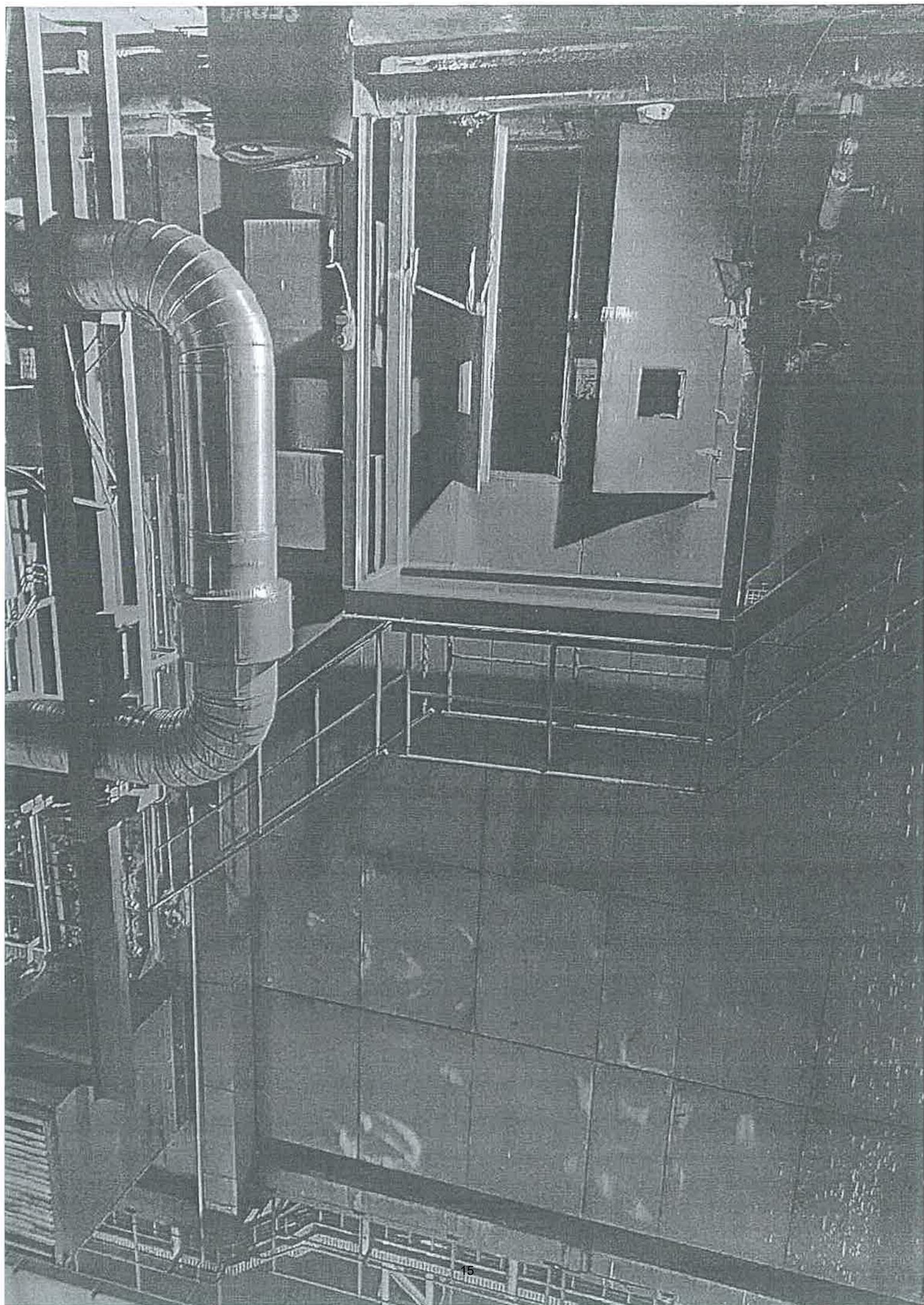
RAMESH KUMAR
Advocate & Notary, Bengaluru

12/11/2021









Annexure-R21

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.

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)