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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

ORIGINAL APPLICATION NO. 364 OF 2022

IN THE MATTER OF:

Ram Kailash Singh

...Applicant

Versus

State of U.P. & Ors.

...Respondents

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DATE: 03.05.2023

PLACE: New Delhi

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**ADDITIONAL REPLY ON BEHALF OF RESPONDENT NO. 5 / PRAYAGRAJ
POWER GENERATION COMPANY LIMITED**

MOST REPECTFULLY SHOWETH:-

I. CONSPECTUS:-

1. The present Original Application has been filed by Mr. Ram Kailash Singh ("**Applicant**"). The Applicant in the captioned Application has alleged that NTPC has been dumping Fly Ash in an abandoned mine which is approximately 200 feet in depth and in which nearly 80 feet is filled with water. The Applicant has further stated that due to the alleged dumping of Fly Ash by NTPC in the abandoned mine, the water is being rendered unusable which is polluting the environment being in violation of the Environment (Protection) Act, 1986 ("**EP Act**").
2. However, upon constitution of the Joint Committee as per the Order of this Hon'ble Tribunal, it was found that the complaint pertains to M/s Prayagraj Power Generation Company Limited ("**PPGCL**" / "**Respondent No. 5**") and not to NTPC.
3. It is submitted that PPGCL had filed its Reply in the captioned matter

on 20.03.2023. The submissions made by PPGCL *qua* the issue raised in the present matter are as follows:-

- (a) PPGCL has duly complied with the MoEF&CC Notifications, by appointing a contractor to dispose of the Fly Ash (i.e. M/s Ram Raj Singh ("**Respondent No. 6**" / "**Contractor**")),
 - (b) Respondent No. 6 was granted the Consent to Operate ("**CTO**") by Uttar Pradesh Pollution Control Board ("**UPPCB**") under the Air (Prevention and control of Pollution) Act, 1981 ("**Air Act**") and also the Water (Prevention and control of Pollution) Act, 1974 ("**Water Act**").
 - (c) PPGCL has also duly complied with the PPGCL Ash Utilisation Policy by appointing the Contractor for a safe disposal of Fly Ash.
4. Thereafter, the present matter was listed for hearing on 21.03.2023 before this Hon'ble Tribunal and the matter was heard extensively by this Hon'ble Tribunal.
 5. It is pertinent to highlight that Respondent No. 6 and Respondent No. 7 ("**Respondents/ Contractor**") had filed a joint reply on 18.03.2023 in the captioned matter.
 6. The Hon'ble Tribunal *vide* its Order dated 21.03.2023 had directed PPGCL to file its additional response to the reply filed by the Respondents. Hence, PPGCL through the present reply is responding to the joint reply filed by the Respondents in the captioned matter.
 7. The present reply is being filed in addition to the reply dated 20.03.2023 already filed by PPGCL. The contents of the same may be read as part and parcel of the present reply.

8. At the outset, all the allegations levied against PPGCL are denied in entirety. Nothing stated in the said reply filed by the Respondents shall be deemed to be admitted by PPGCL, unless specifically admitted hereinafter.

Re: *No Specific averment made against PPGCL by the Contractor:-*

9. There is no specific averment made against PPGCL *qua* the present issue in the joint reply filed by the Respondents. However, the primary contention raised against PPGCL is that it had stopped the supply of the Fly Ash to the Respondents, which has resulted in the stoppage of the work of backfilling since February, 2022.
 - 9.1. Further, the relief sought by the Respondents from this Hon'ble Tribunal was for issuance of an appropriate order for directing PPGCL to provide the Fly Ash to the Respondents so that the aforesaid work could be resumed. Therefore, in response to the aforesaid averment made by the Respondents, PPGCL hereby submits its response, that it had stopped the supply of Fly Ash to the Respondents due to the various deficiencies which were solely attributable to them. The said material deficiencies were pointed out by JC *vide* its Report dated 28.07.2022.
 - 9.2. Pertinently, the recommendations made in the Report were solely against the Respondent No. 6 and not against PPGCL. Hence, PPGCL deemed it fit that till the time Respondent No. 6 undertakes to take appropriate remedial steps in light of the recommendations made by the JC *vide* its Report dated 28.07.2022, it shall cease the supply of the Fly Ash to the Respondents.
 - 9.3. It is submitted herein that PPGCL in terms of the Safe Disposal of Fly

Ash Notification dated 31.12.2021 issued by the Ministry of Environment, Forest & Climate Change (“**MoEF&CC**”) was supplying Fly Ash to the Respondents for its safe disposal.

- 9.4. It is further submitted that PPGCL undertakes to supply Fly Ash to the Respondents, for the resumption of the back filling of abandoned mine void, as and when appropriate directions are issued by this Hon’ble Tribunal.
10. Therefore, in the light of the facts and circumstance stated above, it is most respectfully prayed that this Hon’ble Tribunal may be pleased to dispose the present OA preferred by the Applicant.

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Advocates for Respondent No. 5/PPGCL
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IN THE MATTER OF:

Ram Kailash Singh

...Applicant

Versus

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...Respondents

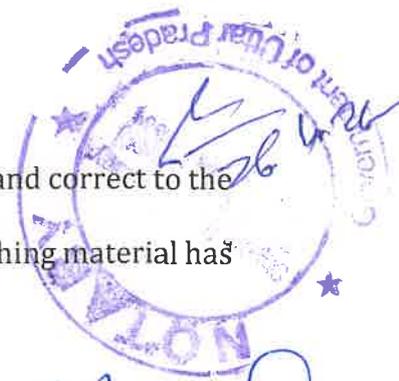
AFFIDAVIT

I, Ashok Kumar Panda, aged about 56 years, son of Nrushigha Chandra Panda, resident of C2/1, Prayag Vihar, PPGCL, PO – Lohgara, Tehsil – Bara, Prayagraj, Pin - 212107, Authorised Representative of Respondent No. 5 i.e. M/s Prayagraj Power Generation Company Ltd ("**Respondent No. 5**"/"**PPGCL**"), having its office at PO – Lohgara, Tehsil – Bara, Prayagraj, Pin – 212107 , do hereby solemnly affirm, declare and state on oath as under:-

1. I am duly Authorised Representative of Respondent No. 5 Company in the instant Original Application and as such I am well conversant with the facts and circumstances of the present case, based on the information and knowledge as derived from the records maintained by the Respondent No. 5 in its ordinary course of business .
2. That I have read the accompanying Additional Reply and I say that the same has been drafted under my instructions, and that the contents therein are true and correct to the best of my knowledge and belief.
3. That the Annexures filed along with the accompanying Additional Reply are true copies of their respective originals.



4. That the facts stated above in the above affidavit are true and correct to the best of my knowledge. No part of the same is false and nothing material has been concealed therefrom.



Ashok Kumar Panda

DEPONENT



VERIFICATION

I, Ashok Kumar Panda, the deponent above named do hereby verify that the contents of this affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at Prayagraj, on this 26th day of April 2023.

Ashok Kumar Panda

DEPONENT



Ashok Kumar Panda
26/4/23

Ashok Kumar Panda
by the _____ Clerk
Sri. _____
on date *26/4/23*
Compounded by _____
J.P. Accepted and verified the contents
of this affidavit as true and correct.

ASHOK KUMAR PANDA
Notary
Prayagraj

From: Kunal Chopra
Sent: 03 May 2023 13:52
To: anshula.grover@gmail.com; csup@nic.in; dgmupexp@gmail.com; dfoah-up@nic.in
Cc: Shri Venkatesh; Anant Singh; Delhi Office
Subject: [Service by way of e-mail] - NGT - OA No. 364 of 2022 - Ram Kailash Singh vs State of UP & Ors
Attachments: Additional Reply OA No. 364 of 2022.pdf

Dear all,

We represent M/s Prayagraj Power Generation Company Limited ("**Respondent No. 5**"/"**PPGCL**") in the captioned matter.

The Hon'ble National Green Tribunal ("**Hon'ble Tribunal**") *vide* its order dated 21.03.2023 had directed PPGCL to file its Additional Reply *qua* the Joint reply filed by M/s Ram Raj Singh and Smt. Ramrati Devi ("**Respondent No. 6**" and "**Respondent No. 7**" respectively) in the captioned matter.

Hence, in compliance of the directions issued by this Hon'ble Tribunal, PPGCL is hereby filing its additional reply before this Hon'ble Tribunal.

Kindly treat this e-mail as a valid service of the Additional Reply being filed on behalf of PPGCL.

This is for your kind information and record.

In case of any clarification, feel free to revert.

Best Regards,



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