

**IN THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH
NEW DELHI**

Original Application No. 327 of 2022

IN THE MATTER OF: -

Amaravati Fly Ash Bricks Manufacturers Association

Petitioner

Versus

Union of India & Ors

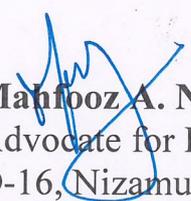
Respondent No. 5

INDEX OF DOCUMENT

Sl. No.	Description of Documents	Page No.	Court fee
1.	Counter Affidavit on Behalf of Respondent No. 5	1-5	
2.	Vakalatnama on behalf of Respondent No. 5.	-6-	.

Your faithfully,

Filed on: 22.08.2022


Mahfooz A. Nazki
Advocate for Respondent
D-16, Nizamuddin East,
New Delhi, 110013.
Mob: 9871200737
Ph: 01135543334
[AOR Code: 2744]

Copy to Mr. Gaurav Kumar Bansal, Advocate

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI

ORIGINAL APPLICATION NO. 327 OF 2022

In the matter of:

AMARAVATI FLY ASH BRICKS
MANUFACTURERS ASSOCIATION

...PETITIONER

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

COUNTER AFFIDAVIT FILED ON BEHALF OF RESPONDENT NO. 5

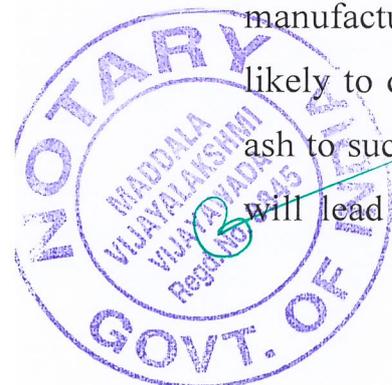
I, Posem Ashok Kumar Reddy, S/o P. Raja Reddy, aged, 56 years, presently working as the Chief Engineer of Dr. Narla Tata Rao Thermal Power Station, Ibrahimpatnam, NTR District, Andhra Pradesh do hereby solemnly affirm and sincerely state on oath as follows:

1. That I am the Chief Engineer of Dr. Narla Tata Rao Thermal Power Station ("Dr.NTTPS") i.e., Respondent No. 5 herein and I am well acquainted with the facts of the present case in my official capacity and as such, I am competent to swear to this Counter-Affidavit.

2. That I have gone through the contents of the present application ("Application") filed before the Hon'ble National Green Tribunal ("Tribunal") and I hereby deny all the averments made by the Applicant, which pertain to the Answering Respondent, except those which are specifically admitted hereunder.



3. The present Application pertains to the issue of the usage of fly ash produced by power plants. The Ministry of Environment, Forests and Climate Change (“**MoEF&CC**”), i.e., Respondent No. 1 herein, issued a notification dated 31.12.2021 (“**MoEF&CC Notification**”), providing guidelines in this regard. In line with the MoEF Notification, the Ministry of Power (“**MoP**”), i.e., Respondent No. 4 herein, issued an office order dated 22.02.2022 (“**MoP Order**”) directing thermal power plants to dispose of fly ash produced by them by supplying it to end users such as brick manufacturers, construction agencies, etc. by way of a transparent bidding process. Further, the MoP Order allows thermal power plants to provide said fly ash free of cost only in the event that the quantity of fly ash produced by the concerned thermal power plant cannot be completely utilized of by way of the aforementioned procedure of sale to consumers through the transparent bidding process.
4. Pursuant to the MoP Order, the Answering Respondent, a thermal power plant in Andhra Pradesh, issued a communication dated 16.03.2022 (“**Dr.NTTPS Letter**”) to the various fly ash brick manufacturer associations in the State, informing them that the fly ash which used to be supplied to them by the Answering Respondent free of cost (which was 20% of the fly ash produced by the Dr. NTTPS) would now be sold to such fly ash brick manufacturing units at a nominal rate of INR 50 per MT duly complying the orders of APGENCO.
5. The present Application has been filed by one such fly ash brick manufacturers’ association against the MoP Order, alleging that the same is likely to detrimentally impact the environment, because if the supply of fly ash to such brick manufacturing units is not made completely free of cost, it will lead to a lowering in the utilization of fly ash produced by thermal



power plants. The present Application has also challenged the Dr. NTPPS Letter on the same ground.

6. At the very outset, the Answering Respondent humbly submits that it has only issued the Dr. NTPPS Letter because all thermal power plants are bound to comply with the MoP Order, which has made it categorically clear that unless thermal power plants adopt a transparent bidding process whereby the fly ash produced by them is sold to end users, they will face financial losses, which shall lead to an increase in tariffs that will disadvantage electricity consumers. Accordingly, it is respectfully submitted that the Application, insofar as it concerns the Answering Respondent, ought to be dismissed, since the Dr. NTPPS Letter was only issued in compliance with the MoP Order.
7. At this juncture, it may not be out of place to mention that the Answering Respondent has always consistently met its goal of utilizing 100% of the fly ash produces, despite the fact that the majority of the fly ash produced by the Dr. NTPPS (80%) has been sold to various end users such as cement / asbestos units, etc., by way of a transparent bidding process. The present rate at which this supply is being made is INR 318 per MT. The Answering Respondent's success in meeting the goal of 100% utilization of fly ash produced, despite monetization of the supply thereof, is evidenced by way of the table hereunder which indicates the yearly fly ash utilization statistics of the Answering Respondent.

Year	% of Utilization
2018-2019	103.90
2019-2020	98.61 (Due to lock down on account of Covid-19)



- ii. The Answering Respondent and APGENCO established three brick units in the premises of the Dr. NTTPS to meet in-house fly ash consumption needs and to promote ash-based products.
- iii. In case any system constraints the ash handling and extraction of dry fly ash/bottom ash, it is discharged to the ash pond in slurry form. Details of the stock of fly ash in the ash pond are being uploaded on the CPCB website regularly.

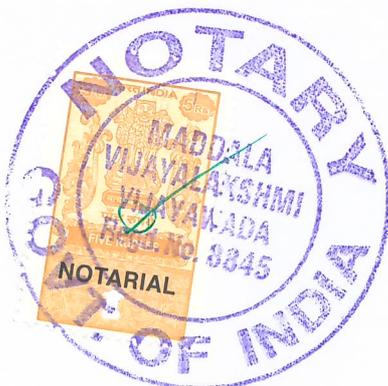
11. In light of the aforementioned submissions, the Answering Respondent humbly prays for this Hon'ble Tribunal to dismiss the Application, to the extent of its allegations and contentions against the Answering Respondent, considering that the Answering Respondent's actions are merely in compliance with the MoP Order, and because the Dr. NTTPS has continued to meet its goal of 100% utilization of fly ash produced, thereby causing no harm to the environment, as apprehended by the Applicant.


DEPONENT
Chief Engineer
O & M / Dr. N.T.T.P.S.
Ibrahimpattam - 521 456

VERIFICATION:

I, the Deponent abovenamed, do hereby verify that the contents of my affidavit are true and correct to the best of my knowledge and belief and that no part of it is false and nothing material has been concealed therefrom.

Verified at _____ on this _____ day of August, 2022.




17/08/2022
MADDALA VIJAYALAKSHMI, B.A., B.L.
ADVOCATE & NOTARY
FLAT No.103, RAMYA TOWERS
IBRAHIMPATNAM (Village & Mandal)
VIJAYAWADA-521456
KRISHNA Dist, ANDHRA PRADESH


DEPONENT
Chief Engineer
O & M / Dr. N.T.T.P.S.
Ibrahimpattam - 521 456

6

VAKALATNAMA
BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 327 OF 2022

In the matter of:

Amaravati Fly Ash BricksManufacturers Association

... Applicant

Versus

Union of India &Ors.

... Respondents

VAKALATNAMA

I/ undersigned Petitioner(s)/ Appellant(s) / Respondent in the above Special Leave Petition/Appeal / Petition / Reference / Application do hereby appoint and retain **Mr. Mahfooz A. Nazki**, Advocate, to act and appear for me/ us in the above Special Leave Petition/Appeal / Petition / Reference / Review / Application on my/our behalf, to conduct and prosecute / 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 proceeding in Taxation and Application for Review and to file and obtain return of documents and deposit and receive any money on my / our behalf in the said Special Leave Petition / Appeal / Petition / Reference / Application and in Application for Review, and to represent me / us, and to all necessary step on my/ our behalf in the above matter. I/We agree to pay his fee and pocket expenses, and to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.

Dated this the 22nd day of August 2022.

ACCEPTED & IDENTIFIED BY

[Mahfooz A. Nazki]
Advocate

MAHFOOZ A. NAZKI
ADVOCATE
(AP- 1410-A/2007)
D- 16, First Floor
Nizamuddin East New Delhi - 13
mob- 9871200737



[Signature]
Respondent No. 5
Chief Engineer
O & M / Dr. N.T.T.P.S.
Ibrahimpattam - 521 456

Identified