

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Original Application No. 74 of 2021 (SZ)

**with
I.A No. 131 of 2023**

K.Saravanan

...Applicant

Verses

The Union of India

.... Respondent

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Dated at Chennai this the 4th day of December 2024



Sai Srujan Tayi
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IN THE MATTER OF:

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**INTERIM ADDITIONAL AFFIDAVIT ON BEHALF OF MINISTRY OF
ENVIRONMENT, FORESTS & CLIMATE CHANGE, RESPONDENT
NO. 1**

I, E. Arockia Lenin , S/o Emanuvel.J , aged about 37 Years working as 'Scientist-D' in the Ministry of Environment, Forest and Climate Change, having Regional office located at Chennai, do hereby solemnly affirm on oath and state as under:

1. That I am presently working as 'Scientist-D' in the office of the Respondent No.1 and as such am well acquainted with the facts and circumstances of the case on the basis of the records available in my office and thus




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duly authorized to file this Affidavit on behalf of the Respondent No. 1 herein, i.e. the Ministry of Environment, Forest & Climate Change. Specifically admitted hereunder:

2. The instant application challenges the Office Memorandum (hereinafter referred to as 'O.M.')
- issued by the Ministry of Environment, Forests and Climate Change (hereinafter referred to as "Ministry") vide F.No. J-13012/8/2009-IA, II (T) dated 11.11.2020 that grants exemption from obtaining environmental clearance, while fuel source is changed from (i) imported coal to domestic coal, (ii) domestic to imported and (iii) domestic to domestic subject to compliance of certain conditions.

Thereafter, vide IA No 131 of 2023, the applicant amended prayer of the present application seeking to quash the office memorandum dated 11.11.2020 bearing No. F. No J 13012/8/2009-IA. II (T) as amended by OM dated 06.12.2023 bearing number F.No. J-13012/8/2009-1A.II (T) issued by the Ministry.

3. That the Hon'ble Tribunal vide interim order dated 24.05.2023 directed the MoEF&CC to revisit the Office Memorandum dated 11.11.2020


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Regarding 'Amendment in Environmental Clearance for change in coal source by Thermal Power Plants' by the Expert Appraisal Committee (hereinafter referred to as 'EAC'). In compliance of the aforesaid order dated 24.05.2023 passed by the Hon'ble Tribunal, the Ministry referred the matter to the EAC for further examination of the issues. The EAC, after detailed deliberations, finalized its recommendations and proposed changes in applicability of OM dated 11.11.2020 stating that "*...since the EAC, as per the EAC Report, does not recommend for withdrawal of the OM dated 11.11.2020 rather, it has only proposed certain changes in the applicability of OM dated 11.11.2020. Therefore, in light of the above the MoEF&CC has decided to issue an amendment to the OM dated 11.11.2020...*"

Subsequently, the Ministry accepted the above mentioned recommendations of the EAC and amended the OM dated 11.11.2020 vide OM amendment dated 06.12.2023. In this regard, a Compliance Affidavit was filed on 20.10.2023 followed by Memo dated 07.11.2023.

4. That the Hon'ble Tribunal vide order dated 12.08.2024 directed to submit the aspects to sustain the Office Memorandum dated 11.11.2020 &



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06.12.2023 regarding amendment in Environment Clearance for change in coal by thermal plants. In this regard, vide interim additional affidavit dated 18.09.2024, the Ministry submitted before this Hon'ble Tribunal the steps undertaken in compliance of the aforesaid order. For the sake of brevity, detailed exposition is being refrained however, the relevant extract is mentioned hereunder:

- i. Information was sought on the following technical aspects from the Central Pollution Control Board (hereinafter referred to as 'CPCB') and Central Electricity Authority (hereinafter referred to as 'CEA'):
 - a. Region-wise; Fly ash utilization status (%)
 - b. Utilization of water before and after change in coal source
 - c. FGD Installation status
 - d. Ambient air quality before and after change in coal source
 - e. Coal characteristics w.r.t change in coal quality (including Mercury)
 - f. Details of transportation of coal before and after change in coal source



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- ii. Based on the information provided by CPCB and CEA, a special EAC meeting was convened on 06.09.2024.
- iii. The EAC deliberated on the information received with respect to the technical aspects namely, region wise ash utilization, changes in water requirement due to change of coal source and FGD installation status. Further, it opined to have another meeting on receipt of information on the other remaining aspects provided hereunder for taking a considered view in the matter:
 - a. Ambient air quality of 6 months before and after change in coal source
 - b. Coal characteristics w.r.t change in coal quality (including Mercury)
 - c. Details of transportation of coal before and after change in coal source
- iv. Since the data for the remaining aspects was yet to be critically examined by the EAC therefore, further time was sought to file the observation of the EAC in this regard.



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5. That thereafter, the matter came up for hearing on 23.09.2024 and in this regard, the Hon'ble Tribunal was of the view that the regulations cannot be tweaked to suit the needs of economic development/industrial development giving a go by to the principle of environmental protection. The Hon'ble Tribunal observed that the following aspects needs to be categorically examined by the EAC:

- a) The fly ash utilization status in the southern region is 94.31% but nearly 30 lakhs metric tonnes of ash is not utilized annually.
- b) The installation of FGD by the thermal power plants is very low and the timeline for compliance is being extended from time to time.
- c) The issues of additional fly ash generation due to blending of domestic and additional generation of sulphur oxides when imported coal is blended will be handled, when the current units themselves have not achieved 100% fly ash utilization or FGD installation, remains unexplained.
- d) Initiation of legal action in violation matters cannot be taken as a plea when the regulator has the knowledge of the fact that the



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Thermal power plants are not fully compliant and the timelines are only being pushed by the MoEF&CC.

- e) In the case of change from imported to domestic where the GCV of the domestic coal is at par with the GCV of the imported coal, the MoEF&CC has not identified such coal mines based on scientific assessment.
6. It is pertinent to mention here that in the meanwhile, the expert institutions namely National Institute of Advanced Studies (NIAS), Indian Institute of Science Campus (IISc), Bengaluru, National Environmental Engineering Research Institute (NEERI), Nagpur and Indian Institute of Technology (IIT), Delhi have undertaken the study on the subject matter of requirement of FGD in Thermal Power Plants and analysis of SO₂ emission norms. As the above mentioned studies are inter-connected with the concerns observed by Hon'ble Tribunal, a meeting was held on 19.11.2024 in the Ministry with the representatives of the above mentioned expert institutions wherein it was observed that the environmental concerns arising due to change in coal source be placed before the EAC for further deliberation in order to understand the bearing of the above studies on the instant matter.



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7. That thereafter, the matter was referred to the EAC to discuss the information/data received from the CPCB on the remaining aspects viz., coal characteristics w.r.t change in coal quality (including Mercury), ambient air quality and details of transportation of coal before and after change in coal source as well as to apprise regarding the meeting with the representatives of the expert institutes. After thorough discussion, the EAC opined that the concerns observed by Hon'ble NGT vide order dated 23.09.2024 shall be comprehensively looked into after the study reports of the above mentioned expert institutions are made available.

Therefore, it is most humbly requested to grant an additional time of 12 weeks as the report of the expert institutions are yet to be made available and thereafter to be deliberated upon by the EAC.

The copy of the Minutes of Meeting of the EAC held on 29.11.2024 is annexed as **Annexure -1**.

8. That the present additional affidavit may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate order(s), direction(s) as deemed fit and proper under the facts and circumstances of the present case.



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9. In view of the above mentioned facts, this Hon'ble Tribunal may pass any orders as may deem fit in the interest of justice.

The Answering Respondent prays accordingly.



DEPONENT

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VERIFICATION

I, the above named deponent, do hereby solemnly affirm and state that the contents of above mentioned are true and correct to the best of my knowledge and based on record and I have not suppressed any material fact.

Verified at Chennai on 4th day of December, 2024.



DEPONENT

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Minutes of the Special Expert Appraisal Committee (Thermal Sector) meeting held virtually on 29/11/2024 to deliberate on the Office Memorandum dated 11/11/2020 & 06/12/2023 regarding amendment in Environment Clearance for change in coal source by Thermal Power Plants(TPPs).

In continuation to the meeting of the Special Expert Appraisal Committee (EAC) of Thermal sector held on 06/09/2024 on the subject cited above, a meeting was held on 29/11/2024 virtually to deliberate on the way forward action in order to address the following observations of Hon'ble National Green Tribunal as mentioned in its Order dated 23/09/2024 in Original Application No. 74 of 2021 (SZ) and I.A. No. 131 of 2023, titled K. Saravanan, Chennai vs Union of India:

- i. The fly ash utilization status in the southern region is 94.31% but nearly 30 lakhs metric tonnes of ash is not utilized annually.
- ii. The installation of FGD by the TPPs is very low and the timeline for compliance is being extended from time to time.
- iii. The issues regarding handling of additional fly ash generation due to blending of domestic coal and additional generation of sulphur oxides when imported coal is blended when the current units themselves have not achieved 100% fly ash utilization or FGD installation, remains unexplained.
- iv. Initiation of legal action in violation matters cannot be taken as a plea when the regulator has the knowledge of the fact that the TPPs are not fully compliant and the timelines are only being pushed by the MoEF&CC.
- v. Cases where the Gross Calorific Value (GCV) of the domestic coal is at par with the GCV of the imported coal, such coal mines shall be identified based on scientific assessment. The concern of the MoEF&CC ought to be to serve the interest of the environment while permitting economic development/industrial development. The regulations cannot be tweaked to suit the needs of economic development/industrial development giving a go by to the principle of environmental protection.

The Hon'ble Tribunal directed that the above mentioned aspects have to be categorically examined by the EAC. The matter is next posted for hearing on 05/12/2024.

2. It was apprised to the EAC – Thermal Sector that in its meeting held on 06/09/2024, the EAC deliberated on the information received from Central Electricity Authority (CEA)

and Central Pollution Control Board (CPCB) with respect to the technical aspects namely region wise ash utilization, changes in water requirement due to change of coal source and FGD installation status. After deliberations, the EAC opined that the OM dated 11/11/2020 and 06/12/2023 have been issued after taking into consideration all the environmental impacts arising out of change in coal source. However, the EAC opined to present the information on the following aspects for taking a comprehensive view in the matter:

- Ambient air quality of 6 months before and after change in coal source
- Coal characteristics w.r.t change in coal quality (including Mercury)
- Details of transportation of coal before and after change in coal source

3. With respect to the above mentioned points, information as received from CPCB was circulated and duly deliberated upon by the EAC.

4. During discussion, it was apprised to the EAC that a meeting was held on 19/11/2024 in the Ministry under the chairmanship of Additional Secretary – Impact Assessment Division on the subject cited above wherein it was noted that the expert institutions namely National Institute of Advanced Studies (NIAS), Indian Institute of Science Campus(IISc), Bengaluru, National Environmental Engineering Research Institute (NEERI), Nagpur and Indian Institute of Technology (IIT), Delhi have undertaken following studies.

- i. NIAS has undertaken a study regarding requirement of FGD in TPPs. Broadly, the study has concluded that due to three factors viz. low sulphur content in the domestic coal, alkaline nature of Indian climatic conditions and high stacks installation, ground level SO₂ concentration is found well within the National Ambient Air Quality Standards (NAAQS). Further, it was also informed that the issue regarding control of particulate matter emission from TPPs through installation of high efficiency Electro Static Precipitator (ESP) is also being examined in the said report.
- ii. NEERI conducted a study analyzing the concentration of SO₂ measured by 467 Continuous Ambient Air Quality Monitoring Stations (CAAQMS) operated by CPCB and 486 CAAQMS operated by TPPs spread across India. The TPPs emitting SO₂ are not contributing to rise in SO₂ concentration.

- iii. IIT Delhi also conducted the “Study to assess the compliance of thermal power plants in India to new SO₂ emission norms and lay out phased plan for FGD implementation”.

The above mentioned report of NIAS, NEERI and IIT Delhi are currently under deliberation in the Ministry of Power along with the concerned line ministries for taking considered view in the matter. The report of these expert institutions are likely to be made available shortly. It was observed in the meeting held on 19/11/2024 that the environmental concerns arising due to change in coal source be placed before the EAC for further deliberation in order to understand the bearing of these studies on the matter pending before the Hon'ble Tribunal. It was also opined to co-opt the representatives from NEERI, NIAS, CPCB and IIT Delhi in the upcoming special EAC meeting.

5. The instant matter was deliberated upon by the EAC – Thermal in detail and thereafter, the Committee decided to have a meeting on receipt of the said reports for taking a considered view in the matter by co-opting the representatives from NEERI, NIAS, CPCB and IIT Delhi. Since the findings/recommendations of these reports are inter-connected with the concerns observed by the Hon'ble NGT vide order dated 23/09/2024, it was recommended that based on the outcome of the said meeting, the concerns observed by Hon'ble NGT shall be comprehensively looked into. Meanwhile, the Ministry may seek an additional time of 12 weeks beyond 05/12/2024 from Hon'ble NGT (SZ) as the report of the expert institutions are yet to be made available and deliberated upon by the EAC.

6. The meeting ended with vote of thanks to the Chair.

ANNEXURE-I**LIST OF PARTICIPANTS OF SPECIAL EAC MEETING HELD ON 29TH NOVEMBER,
2024 THROUGH VIRTUAL MODE**

S. No.	Name & Address	Role	29.11.2024
1.	Dr. Sharad Singh Negi (I.F.S. Retd.)	Chairman	Present
2.	Shri Inder Pal Singh Matharu, IFS (Retd.)	Member	Present
3.	Shri Lalit Kapur	Member	Present
4.	Dr. Umesh Jagannathrao Kahalekar	Member	Present
5.	Dr. Santosh Kumar Hampannavar	Member	Present
6.	Shri Savalge Chandrasekhar	Member	Present
7.	Shri K. B. Biswas	Member	Present
8.	Prof. Shyam Shanker Singh	Member	Present
9.	Dr. Vinod Agrawal	Member	Present
10.	Dr Nazimuddin, Scientist - F	Representative of Central Pollution Control Board	Present
11.	Shri Mahi Pal Singh, Chief Engineer	Representative of Central Electricity Authority (CEA)	Present
12.	Prof. R M Bhattacharjee	Representative of IIT/ISM Dhanbad	Absent
13.	Shri Sundar Ramanathan	Member Secretary	Present
14.	Sh. Rajesh Prasad Rastogi	Scientist 'D'	Present
15.	Ms. Ishanvi Makhaik	Legal Associate	Present
