

## Justice RajesKumar

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Former Chairperson, Debts Recovery Appellate Tribunal, Kolkata

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New Delhi (Environment Monitoring Committee)

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Date: 28.04.2019

To,

The Chairman,  
Hon'ble National Green Tribunal,  
Faridkot House, Copernicus Marg,  
New Delhi – 110001

**Subject: Progress Report of NGT Committee in the Matter of OA No. 164 of 2018 (Ashwani Kumar Dubey vs. Union of India and others)**

Sir,

I am sending herewith the Progress Reports in the above cases for the kind perusal of the Bench.

  
(Justice Rajes Kumar)  
Chairman  
Oversight Committee

**Before the Hon'ble National Green Tribunal in compliance of the Hon'ble NGT order dated 28.8.2018 in O.A. No. 164/2018, Ashwani Kumar Dubey vs. Union of India and others.**

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**Progress Report dated 28.06.2019**

In compliance of the order, the meeting of the Committee was held on 07.06.2019 at Circuit House, Prayagraj. A copy of the Minutes of the meeting is enclosed herewith.

**(1) Installation of CAAQMS in Thermal Power Plants:-**

Almost in all the Thermal Power Plants CAAQMS has been installed and connected with the CPCB and MPPCB and UPPCB.

In case of Anpara Thermal Power Station, they are not able to install the required CAAQMS despite the time being granted. The Committee proposed to impose penalty/compensation of rupees five lacs and directed the Power Plant to install the CAAQMS within a period of three months. Hon'ble NGT may pass the necessary order.

NTPC, Vindhya Nagar has already installed 04(four) CAAQMS and sought time upto 31<sup>st</sup> December, 2019 for the installation of 01(one) CAAQMS which has been allowed.

**(2) Fly Ash:-**

There is a positive response from the users of the fly ash and the producers of the fly ash in disposal of fly ash.

NHAI agreed with the NTPC to use the fly ash in the construction of the road and NTPC has also agreed to supply fly ash free of cost up to the range of 300 kilometres. In some of the cases, MoU have also been executed.

Shri A.K. Tiwari, E.D., NTPC, Vindhya Nagar stated that they could achieve the disposal of fly ash up to 60% this year in comparison to current disposal of 35%.

The Committee was of the view that fly ash could be substantially used in manufacturing of bricks. The Committee in this regard observed as follows:

“Shri A.K. Tiwari, E.D., NTPC, Vindhya Nagar states that they are producing 100000 bricks per day by using the fly ash and the cement. We find that the other units of NTPC have no such set-up for the manufacturing

of fly ash bricks. We direct all the units of NTPC to install the manufacturing units of bricks being manufactured by the use of fly ash and cement. This direction may be complied with within the period of two months.

It is suggested by the representative of NTPC that the Central Government as well as the State Government(s) may be directed to issue the notification to make use of fly ash bricks mandatory in their projects and also use fly ash for purposes of filling of the lands. He further states that the red bricks manufactured out of the soil is creating great pollution. The bricks are manufactured by burning/firing, where coal is used producing smokes containing coal contents which is causing air pollution. He further states that land after the operation of kiln and surrounding land becomes Bazar land because of the firing. Moreover, they are getting coal by road transport which is prohibited by the Hon'ble NGT. The Committee recommends to the Hon'ble NGT to pass appropriate orders to ban the manufacturing of red bricks by use of clay/soil and burning by coal.

Committee further directs Chairman CPCB to pursue the matter with the Central Government and State Governments for the issue of Notification in respect of use of Fly ash as stated above.

Shri Vijay Atri, GM, NTPC Rihand states that the plant has opened Fly Ash Dump at Varanasi to facilitate the supply of fly ash to the bricks manufacturers, tiles manufacturers etc. As per plan, the plant will transport fly ash from the plant to the Varanasi Fly Ash Dump Area by road in bags and thereafter supply it to the manufacturers. This will sufficiently raise the disposal of fly ash.

Shri Pandey, President of the Brick kiln Owners' Federation states that in the state of U.P. the total number of brick kilns is about 20000, which are running, out of which about 7000 brick kilns are running illegally without any licence and legal authorisation. He requested that this aspect of the matter may also be taken note and the operation of the illegal brick kilns must be stopped. The Committee directs the Regional Director, CPCB to look into the matter and collect the report in this regard.

#### **Filling of Fly ash in Grobi Mine:-**

Shri A.K. Tiwari, E.D., NTPC, Vindhya Nagar states that after the execution of MOU with the NCL and the completion of all the formalities, the matter has been referred to the Ministry of Environment and Forests, New Delhi for environment clearance in the month of February, 2019. The matter is still pending. He stated that the Ministry of Environment and Forests, New Delhi has raised several queries, out of which compliance of most of queries have been made by furnishing the requisite reply. But some of the queries are of such a nature which requires sufficient time. It is

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submitted that the plant is ready to give all sorts of undertakings which will not affect the environment in any manner if they may be allowed to fill the fly ash in the abandoned Gorbi mine as an interim measure and, meanwhile, they will give the reply and may complete the details of the other queries.

The Committee is of the view that the utilisation of fly ash is an important issue and has direct impact on the environment, resulting the air pollution. Even the PMO has raised a great concern about the disposal of the fly ash and issued various notifications giving rebate and concessions for the utilisation of the fly ash. The Gorbi mine has been declared abandoned in the year 1998. By great efforts and persuasion NCL agreed for filling fly ash in the abandoned Gorbi mines and in respect thereof a MOU has been executed. Shri Tiwari states that in case the plant will be allowed to fill fly ash in the abandoned Gorbi mines, then 10 years production of fly ash will be consumed and it will sufficiently clear the environment. In the facts and circumstances, we request the Ministry of Environment and Forests to look into the matter in the interest of the public and the environment expeditiously and without raising any technical objections and after taking the undertakings from the plants they may be allowed to fill the fly ash in the Gorbi mines expeditiously. If possible, the Ministry may allow the plant on a pilot basis on submission of SOP. Committee requests the Chairman CPCB New Delhi to pursue the matter with the Ministry of Environment.

Shri A.K. Tiwari, E.D., NTPC, Vindhya Nagar states that since last two months they have utilised 60000 M.T. of fly ash by supplying it free of cost to the various brick manufacturers and the other private persons for the purposes of filling of their land and they have further planned to supply another 60000 M.T. of fly ash in the next coming two months. He further states that they are going to open a Fly ash Park at Rewa in State of Madhya Pradesh to facilitate the supply of fly ash to the cement manufacturers as well as the brick manufacturers, tile manufacturers, etc.

Shri Mukesh Mittal, Vice President of Renusagar Thermal Power Plant states that there is 100% utilisation of the fly ash generated in their power plant. He read the details of the fly ash used in the financial years 2017-18 and 2018-19. He is directed to submit the details to the Committee. The Committee further directs to the other Captive Power Plants as well as the other Power Plants to give the details of the fly ash generated and utilised in the financial years 2017-18 and 2018-19 by 30.06.2019."

### **(3) Transportation of coal:**

The transportation of coal by road has been completely stopped. The information was received from the District Magistrate, Sonbhadra that the road transportation by the NCL has been completely stopped which resulted a substantial check on the air pollution.

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**(4) Utilisation/Disposal of Red Mud:**

Hindalco Industries has stated the future plan for the utilisation of 20% of the Red Mud generated. They submitted a Plan.

**(5) Shifting of Mercury bearing brine sludge:**

M/s Grasim Industries Ltd. is manufacturing Caustic Soda. Admittedly, in the manufacturing of Caustic Soda, Mercury was one of the items which was obtained as a sludge in the process of the manufacturing. On the objection being raised, it is the case of the Company that they have completely changed the process of manufacturing of Caustic Soda, in which no Mercury is coming out as a bye product in the form of sludge since 2012. However, admittedly a huge stock of the mercury bearing brine sludge/waste which was obtained as a bye product during the course of manufacturing prior to 2012, has been stored in the premises of the Company. Mercury is a hazardous goods. The Hon'ble NGT in its order dated 28.8.2018 directed the Industry to shift the mercury from the factory premises to TSDF immediately. The direction was as follows:

*“ There is also an urgent need for the preparation of an action plan by the industry to shift the mercury bearing brine sludge and the muck contaminated with chlorinated chemicals from the factory premises to the TSDF in consultation with the UP State Pollution Control Board. It may be stated that storage of hazardous mercury bearing brine sludge and the muck contaminated with chlorinated chemicals inside the premises is not permitted by the prevailing Hazardous Waste Management Rules, 2016 and, therefore, to be shifted to a suitable TSDF immediately.”*

Admittedly, the aforesaid direction has not been complied with. In some of the meetings, the Company requested time to take steps but subsequently its representative stated that they have stored the mercury sludge properly in a manner wherein no leakage or any kind of environmental effect may take place. He further stated that it would be difficult to shift the mercury from the premises to the TSDF. He also stated that TSDF will also store mercury sludge in the same manner in which they have stored.

Today, the representative of the Company stated that they have moved an Application before the Hon'ble NGT for the modification of the order dated 28.8.2018 and the said application is on the board for hearing on 19.7.2019. He requested that the matter may be taken up after 19<sup>th</sup> July, 2019.

It may be stated that in the meeting dated 23.11.2018 the Company expressed their difficulty in shifting the mercury waste/sludge from the premises to TSDF. The Committee categorically stated that they have no

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power to modify the order and the Company can approach the NGT for the modification of the order. It may be mentioned here that in the earlier meetings the R.O. Sonbhadra was directed to get the sample of the Dongia nullah and also find out the source of the water.

It may be mentioned here that the Committee has visited the Dongia nullah in district Sonbhadra and has taken out the sample of the flowing water. The said sample was analysed by the Central Pollution Control Board in their lab in which the mercury was found. In this regard, a report was submitted. In the report, the mercury was .0452 mg. per litre while the standard as per the E/Rules 1986 the permissible limit is .01 mg. per litre.

In the survey report of Dongia nullah prepared by Shri Rajesh Singh, Scientific Assistant, \_\_\_\_\_ Senior Engineer, Dr. S.C. Shukla Assistant Scientific Officer and submitted by Shri Radhey Shyam, R.O. Sonbhadra, wherein it is reported that in the column of waste source, discharge in nullah was from M/s Grasim Industries Ltd., Renukoot. In this way, the survey report demonstrates that the waste water discharge found from M/s. Grasim Industries Ltd. is in Dongia nullah.

At the time of the meeting, a query was made from Shri Avinash Rai, representative of the Company, that whether there is any another source from where the mercury may come to Dongia nullah. He stated that to his knowledge, there is none but it may be possible that some discharges may be coming from other sources. The Committee is of the view that most probably the discharge of mercury in the Dongia nullah may be from the Grasim Industries wherein the mercury sludge is stored. The Committee is of the view that on the facts and circumstances the Hon'ble NGT has categorically directed the industry to shift the mercury waste brine sludge from the premises to TSDF, Kanpur and they have not been allowed to store mercury bearing brine sludge in their premises. Nine months have gone but the mercury bearing brine sludge has not yet been shifted. The order of the NGT has not been complied with. The Company is not able to show that the NGT has modified its order and, in the circumstances, the Committee is of the view that the Company has clearly violated the order of the Hon'ble NGT. In these circumstances, we propose to levy the penalty/compensation of rupees one crore which will be subject to the approval by the Hon'ble NGT.

The issue relating to the shifting of mercury bearing brine sludge by M/s Grasim Industries Ltd. has been referred in detail in the Minutes of the meeting. The Committee found that despite the direction given by the Hon'ble NGT for shifting of mercury from the premises of the factory to TSDF Kanpur although nine months have been passed but the mercury bearing brine sludge has not yet been shifted and the direction of the Hon'ble NGT has not been complied. In the circumstances, the Committee


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found that the Company has clearly violated the order of the Hon'ble NGT and proposed to levy the penalty/compensation of rupees one crore. Let the Hon'ble NGT may pass the appropriate order.

- (6) **Water supply:** Shri Faneendra Rai, Executive Engineer, U.P. Jal Nigam states that the construction work for the supply of drinking water is in progress. The civil work for 2 STPs is in progress and the Pipeline of 18 kilometers have been laid. The work of construction of Overhead tanks will also start from the next week. The D.M., Sonbhadra states that he has visited the construction place and found that the work is in progress. We request the Jal Nigam to expedite the matter.
- (7) **Auri Morh-Shaktingar four lane road:** We have heard the Executive Engineer, PWD and SDO Forest. The D.M., Sonbhadra informed that he is looking into the matter which is already in the process of completion and all the formalities are likely to be completed within a month and thereafter the construction will immediately start.
- (8) **Stone crushers:** The complete survey of the area where stone crushers were installed was made by the Regional Officer, Sonbhadra. There was lot of confusion about the number of crushers installed. Now, on verification he has given the report which is enclosed herewith. The District Magistrate, Sonbhadra has been directed to ask the owner to remove the super structure where the unit was found closed or was found illegally operating without proper approval. The other stone crushers which are legally operating are asked to follow the guidelines. The R.O. was directed to inspect and verify whether the operating stone crushers are following the guidelines, or not, and submit report accordingly. Due to the sealing of the illegal operation of the stone crushers the substantial air pollution has been checked and on a step being taken to compel the other legally operating crushers to follow the guidelines, the air pollution may likely to be checked substantially.
- (9) **Plantation:** N.T.P.C., N.C.L. and Industries have been directed to ensure plantation of big trees around their plant.

D.M. Sonbhadra has planned to develop stone crusher area as an Industrial Park wherein plantation shall be carried on around the area.

The Committee is of the view that the regular monitoring on the above issues are required. In the absence of the regular monitoring, the action taken by the Committee may be frustrated.

  
(Justice) Rajes Kumar  
Chairman  
Oversight Committee

The minutes of meeting of Oversight Committee under Chairmanship of Hon'ble Justice (Retd.) Shri Rajes Kumar, Allahabad High Court held on dated 07.06.2019 at Circuit House, Prayagraj in compliance of Hon'ble NGT order dated 28/8/2018 in O.A. No. 164/2018, Ashwani Kumar Dubey vs. Union of India and others.

The attendance sheet of Committee Members and stake holders is enclosed.

**(1) Installation of CAAQMS in Thermal Power Plants:-**

Shri J.P. Nigri, Singrauli, Madhya Pradesh states that they have already submitted an Affidavit for the installation of CAAQMS. Shri S.K. Bagri, President of the Company, states that they have installed the required CAAQMS and also connected with the CPCB server and MPPCB server, although he stated that they have given it in writing to the concerned Authority but he has no evidence in this regard. He is directed to file an Affidavit in this regard within the period of one week with the Regional Officer, MPPCB and a copy thereof to the Chairman of the Committee.

Shri Amitosh Verma, Assistant Vice President of Reliance Shasan Thermal Power Station states that they have already installed 3 CAAQMS since \_\_\_\_ 2014 and they have also connected with the CPCB server and MPPCB server. Shri H.K. Sharma, Director, MPPCB endorses the statement.

Shri Manoj Kumar Sharma, M.D. Essar Power Plant states that in their unit 4 CAAQMS are installed and they shall be connected with the CPCB server and MPPCB server shortly. Shri H.K. Sharma, Director, MPPCB endorses the statement.

Shri Rajiv Kumar, Executive Director, Obra Thermal Power Station states that despite best efforts being made till today they are not able to install the required CAAQMS; however, they are trying their best to install the same as early as possible. He seeks three months' time to install. Hon'ble NGT vide orders dated 28.8.2018 has already directed the Thermal Power Plant to install CAAQMS and connect it with the CPCB server and MPPCB server. In an earlier meeting held by the Oversight Committee the time had been sought to install CAAQMS and inspite of their assurances to do so, the time is being sought again. It appears to be a case of negligence and ignoring the direction of the NGT. We propose to impose penalty/compensation of Rs.5 lacs and direct the power plant to install the CAAQMS within a period of three months, failing which the Committee will consider to levy higher penalty.

Shri N.N. Tripathi, Superintending Engineer, Anpara Thermal Power Station states that despite best efforts being made till today they are not able to install the required CAAQMS; however, they are trying their best to install the same as early as possible. He seeks three months' time to install. Hon'ble NGT vide orders dated 28.8.2018 has already directed the Thermal Power Plant to install CAAQMS and connect it with the CPCB server and MPPCB server. In an earlier meeting held by the Oversight Committee the time had been sought to install CAAQMS and inspite of their assurances to do so, the time is being again sought. It appears to be a case of negligence and ignoring the direction of the NGT. We propose to impose penalty/compensation of Rs.5 lacs and direct the power plant to install the CAAQMS within a period of three months, failing which the Committee will consider to levy higher penalty.

Shri Vijay Kumar Tiwari, Manager, Lanco Thermal Power Plant stated that the plant has already installed the required CAAQMS and complied with the direction of the NGT and has connected the CAAQMS with the CPCB server and UPPCB server also.

Shri A.K. Tiwari, E.D., NTPC, Vindhya Nagar states that the plant has to install one additional CAAQMS, for which three months time has been given in the meeting of 1<sup>st</sup> March, 2019. He submitted that the order has been placed but due to the non-availability of the budget the same could not be installed. He stated that he has been informed that the budget has been sanctioned and he will install one additional CAAQMS by 31<sup>st</sup> October, 2019. He stated that 03 CAAQMS have already been installed and one more CAAQMS has also been installed at the premises which is common to the NTPC Shaktinagar Power Plant. In this way, 04 CAAQMS are already in operation. We propose to give time and direct the plant to install one additional CAAQMS by 31<sup>st</sup> October, 2019.

Shri V.M. Rajan, General Manager, NTPC Shaktinagar states that 02 CAAQMS have been installed in their premises and one CAAQMS is being shared with NTPC Vindhya Nagar. He further stated that the NTPC Shakti Nagar is very close to NTPC Vindhya Nagar and 01 CAAQMS installed in the premises of NTPC Vindhya Nagar serves the purposes of NTPC Shaktinagar. In this way, they have achieved the object and complied with the direction of the NGT.

Shri Rajan Kumar, GM (Operation & Maintenance), NTPC Rihand states that they have already installed the required CAAQMS and complied with the requirement.

Shri Mukesh Mittal, Vice President of Hindalco states that Renusagar Thermal Power Plant is a subsidiary unit of Hindalco. He states that 01 CAAQMS has already been installed in the plant. The distance from

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Renusagar Thermal Power Plant and Lanco Thermal Power Plant is only 1.9 kilometers and 02 CAAQMS units are already installed in the premises of Lanco Thermal Power Plant. All the 03 CAAQMS serve the purposes. They are regularly giving the data to the UPPCB and CPCB. Let the R.O. UPPCB may verify whether the above installed CAAQMS will achieve the purposes, or not. A report may be submitted within a week.

Shri Diwakar Srivastava, GM Environment, NCL states that the total 09 CAAQMS have been installed by them, out of which 04 CAAQMS have been connected with the CPCB server and the UPPCB server and the rest will also be connected within a short time.

**(2) Fly Ash:-**

Shri Pankaj Mishra, General Manager, NHAI, Varanasi states that at present NHAI has 18 projects for the road construction. The Corporate Office of the NHAI has issued a circular that in the construction of roads, NHAI should/ must use fly ash generated in power plants. In pursuance thereof, they are approaching the power plants for the supply of fly ash. He states that various units of NTPC agreed to supply fly ash free of cost up to the range of 300 kilometers. Some of the NTPC plants have already executed MOU for the supply of fly ash.

The various representatives of NTPC - Shri A.K. Tiwari, E.D., NTPC, Vindhya Nagar, Shri V.M. Rajan, General Manager, NTPC Shaktinagar, Shri Arun Kumar Singh, NTPC state that for the transportation of fly ash they have gone for e-tendering. They further state that the e-tendering is on per kilometre basis and once the transportation charges per kilometre are settled, it will be applicable to all the parties for one financial year and they need not to go for e-tendering again and again. The process of completion of e-tendering is taking some time, which is likely to be completed within three months. We direct that the entire process in this regard may be completed within a period of three months so that the disposal of fly ash may start immediately.

The representatives of the NTPC state that on the supply of fly ash to the NHAI, they will be able to achieve the further disposal of at least 25%, apart from the current disposal of 35%.

The disposal of fly ash is very important aspect related to the environment. Because of the generation of the fly ash, the pollution level of the air has gone so high that in case of wind flow it would be difficult to take breath and on the consideration of this aspect of the matter, this area has been declared as the critically polluted area. People of this area are suffering from Asthama, Bronchitis and so many other diseases because of presence of fly ash in the air. Therefore, the Committee is not ready to compromise with the

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situation. The Committee directs the fly ash generators to take further steps apart from all those they have already taken for the disposal of the fly ash.

Shri A.K. Tiwari, E.D., NTPC, Vindhya Nagar states that they are producing 100000 bricks per day by using the fly ash and the cement. We find that the other units of NTPC have no such set-up for the manufacturing of fly ash bricks. We direct all the units of NTPC to install the manufacturing units of bricks being manufactured by the use of fly ash and cement. This direction may be complied with within the period of two months.

It is suggested by the representative of NTPC that the Central Government as well as the State Government(s) may be directed to issue the notification to make use of fly ash bricks mandatory in their projects and also use fly ash for purposes of filling of the lands. He further states that the red bricks manufactured out of the soil is creating great pollution. The bricks are manufactured by burning/firing, where coal is used producing smokes containing coal contents which is causing air pollution. He further states that land after the operation of kiln and surrounding land becomes Bazar land because of the firing. Moreover, they are getting coal by road transport which is prohibited by the Hon'ble NGT. The Committee recommends to the Hon'ble NGT to pass appropriate orders to ban the manufacturing of red bricks by use of clay/soil and burning by coal.

Committee further directs Chairman CPCB to pursue the matter with the Central Government and State Governments for the issue of Notification in respect of use of Fly ash as stated above.

Shri Vijay Atri, GM, NTPC Rihand states that the plant has opened Fly Ash Dump at Varanasi to facilitate the supply of fly ash to the bricks manufacturers, tiles manufacturers etc. As per plan, the plant will transport fly ash from the plant to the Varanasi Fly Ash Dump Area by road in bags and thereafter supply it to the manufacturers. This will sufficiently raise the disposal of fly ash.

Shri Pandey, President of the Brick kiln Owners' Federation states that in the state of U.P. the total number of brick kilns is about 20000, which are running, out of which about 7000 brick kilns are running illegally without any licence and legal authorisation. He requested that this aspect of the matter may also be taken note and the operation of the illegal brick kilns must be stopped. The Committee directs the Regional Director, CPCB to look into the matter and collect the report in this regard.

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**Filling of Fly ash in Grobi Mine:-**

Shri A.K. Tiwari, E.D., NTPC, Vindhya Nagar states that after the execution of MOU with the NCL and the completion of all the formalities, the matter has been referred to the Ministry of Environment and Forests, New Delhi for environment clearance in the month of February, 2019. The matter is still pending. He stated that the Ministry of Environment and Forests, New Delhi has raised several queries, out of which compliance of most of queries have been made by furnishing the requisite reply. But some of the queries are of such a nature which requires sufficient time. It is submitted that the plant is ready to give all sorts of undertakings which will not affect the environment in any manner if they may be allowed to fill the fly ash in the abandoned Gorbi mine as an interim measure and, meanwhile, they will give the reply and may complete the details of the other queries.

The Committee is of the view that the utilisation of fly ash is an important issue and has direct impact on the environment, resulting the air pollution. Even the PMO has raised a great concern about the disposal of the fly ash and issued various notifications giving rebate and concessions for the utilisation of the fly ash. The Gorbi mine has been declared abandoned in the year 1998. By great efforts and persuasion NCL agreed for filling fly ash in the abandoned Gorbi mines and in respect thereof a MOU has been executed. Shri Tiwari states that in case the plant will be allowed to fill fly ash in the abandoned Gorbi mines, then 10 years production of fly ash will be consumed and it will sufficiently clear the environment. In the facts and circumstances, we request the Ministry of Environment and Forests to look into the matter in the interest of the public and the environment expeditiously and without raising any technical objections and after taking the undertakings from the plants they may be allowed to fill the fly ash in the Gorbi mines expeditiously. If possible, the Ministry may allow the plant on a pilot basis on submission of SOP. Committee requests the Chairman CPCB New Delhi to pursue the matter with the Ministry of Environment.

Shri A.K. Tiwari, E.D., NTPC, Vindhya Nagar states that since last two months they have utilised 60000 M.T. of fly ash by supplying it free of cost to the various brick manufacturers and the other private persons for the purposes of filling of their land and they have further planned to supply another 60000 M.T. of fly ash in the next coming two months. He further states that they are going to open a Fly ash Park at Rewa in State of Madhya Pradesh to facilitate the supply of fly ash to the cement manufacturers as well as the brick manufacturers, tile manufacturers, etc.

Shri Mukesh Mittal, Vice President of Renusagar Thermal Power Plant states that there is 100% utilisation of the fly ash generated in their power plant. He read the details of the fly ash used in the financial years 2017-18 and 2018-19. He is directed to submit the details to the Committee. The

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Committee further directs to the other Captive Power Plants as well as the other Power Plants to give the details of the fly ash generated and utilised in the financial years 2017-18 and 2018-19 by 30.06.2019.

**(3) Transportation of coal:**

Hon'ble NGT vide order dated 28.8.2018 has prohibited NCL to transport coal by road. This order of the NGT has not been challenged by NCL immediately after passing the order. The other users have also been prohibited to transport coal by road. In the meeting dated 1<sup>st</sup> March, 2019, the Essar, Lanco and some of the other Thermal Power Plants requested some time to transport coal by road till they make the other arrangement. No request whatsoever was made by NCL for the transportation of coal by road. The Committee in the meeting observed that this committee cannot sit over the order of the Hon'ble NGT. However, as an interim measure in the public interest allowed two months to the users of the coal to transport coal by road so that their production may not suffer and, meanwhile, they have been directed to make the necessary arrangement.

It appears that the NCL moved an Application before Hon'ble NGT for the review of the order dated 28.8.2018. The said application has been rejected as 'not maintainable' by the Hon'ble NGT vide order dated 24.01.2019. The Hon'ble NGT has further observed that transporting of coal in the area will be hazardous. Thereafter, NCL filed the SLP being SLP D No.5032 of 2019. The Hon'ble Supreme Court vide order dated 22.04.2019 condoned the delay, issued the notice and stated that "*status quo* as of today shall be maintained in the meantime".

NCL states that by virtue of the order of the Hon'ble Supreme Court they are entitled to transport coal by road. It may be mentioned here that Essar Limited has also filed an Application before the Hon'ble NGT seeking permission to transport coal by road for the reasons stated in the petition. The Hon'ble NGT vide order dated 21<sup>st</sup> May, 2019 sought the report from CPCB and State Pollution Control Board and fixed the matter for consideration on 19<sup>th</sup> May, 2019. The Hon'ble NGT has not granted any interim order in favour of Essar Limited.

The Committee is of the view that the order of the '*status quo*' passed by the Hon'ble Supreme Court does not give right to NCL to transport coal by road. By the order dated 28.8.2018 Hon'ble NGT has completely prohibited the NCL from transporting coal by road. This order of the Hon'ble Tribunal has not been challenged by the NCL within a reasonable time. This order of the Hon'ble NGT continued till the order passed by the Hon'ble Supreme Court. It is further made clear that at no stage Hon'ble NGT or the Oversight Committee has allowed any time to the NCL to transport coal by road. In the circumstances, the Committee is of the view that when the order

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of 'status quo' was passed by the Hon'ble Supreme Court, the order of the NGT dated 28.8.2018 was in operation which has prohibited the NCL to transport coal by road in as much as order of NGT dated 28.8.2018 has not been stayed by the Hon'ble Supreme Court. Therefore, by the order of 'status quo as of today' the order of the NGT dated 28.8.2018 is in operation prohibiting the transportation of coal by road.

NCL, D.M. Sonbhadra and Singrauli U.P. and M.P. are directed to comply with the direction of Hon'ble NGT strictly and direct all concerned authorities to stop, check and seize the vehicle loaded with coal. NCL is directed to install CCTV at the Exit point. It is made clear that in case if NCL is found transporting coal by road effecting environment they shall be subject to heavy penalty. R.O. and D.M. Sonbhadra and Singrauli U.P. and M.P. are directed to give report in this regard on day to day basis.

**(4) Utilisation/Disposal of Red Mud:**

Hindalco Industries: Shri Mukesh Mittal, Vice President of the Company stated that 04 Piezo meters have been installed. A sample of ground water has been taken by the CGWBD Laboratory. The report is awaited. He submitted a letter written to the Regional Director, Central Water Board in this regard regarding the TCLP test of the Red Mud. It is informed that the work has been given to IRTC Lucknow and report in this regard shall be submitted within 15 days. With regard to Red Mud Shri Mittal stated that they have a plan to utilise 20% of the Red Mud generated in this area. Main use of the Red Mud is in the Cement Industry. They are going to construct a Railway station inside the premises for the loading of the Red Mud and further exploring its utility. Shri Mittal is directed to submit a complete plan for the utilisation of the Red Mud in the coming year. Meanwhile, Shri S.K. Gupta, Regional Director UPPCB may also make an enquiry from the other Aluminium Industries across the country as well as outside the country and find out how they are disposing of the Red Mud.

**(5) Shifting of Mercury bearing brine sludge:**

M/s Grasim Industries Ltd. is manufacturing Caustic Soda. Admittedly, in the manufacturing of Caustic Soda, Mercury was one of the items which was obtained as a sludge in the process of the manufacturing. On the objection being raised, it is the case of the Company that they have completely changed the process of manufacturing of Caustic Soda, in which no Mercury is coming out as a bye product in the form of sludge since 2012. However, admittedly a huge stock of the mercury bearing brine sludge/waste which was obtained as a bye product during the course of manufacturing prior to 2012, has been stored in the premises of the Company. Mercury is a hazardous goods. The Hon'ble NGT in its order

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dated 28.8.2018 directed the Industry to shift the mercury from the factory premises to TSDF immediately. The direction was as follows:

*“ There is also an urgent need for the preparation of an action plan by the industry to shift the mercury bearing brine sludge and the muck contaminated with chlorinated chemicals from the factory premises to the TSDF in consultation with the UP State Pollution Control Board. It may be stated that storage of hazardous mercury bearing brine sludge and the muck contaminated with chlorinated chemicals inside the premises is not permitted by the prevailing Hazardous Waste Management Rules, 2016 and, therefore, to be shifted to a suitable TSDF immediately.”*

Admittedly, the aforesaid direction has not been complied with. In some of the meetings, the Company requested time to take steps but subsequently its representative stated that they have stored the mercury sludge properly in a manner wherein no leakage or any kind of environmental effect may take place. He further stated that it would be difficult to shift the mercury from the premises to the TSDF. He also stated that TSDF will also store mercury sludge in the same manner in which they have stored.

Today, the representative of the Company stated that they have moved an Application before the Hon'ble NGT for the modification of the order dated 28.8.2018 and the said application is on the board for hearing on 19.7.2019. He requested that the matter may be taken up after 19<sup>th</sup> July, 2019.

It may be stated that in the meeting dated 23.11.2018 the Company expressed their difficulty in shifting the mercury waste/sludge from the premises to TSDF. The Committee categorically stated that they have no power to modify the order and the Company can approach the NGT for the modification of the order. It may be mentioned here that in the earlier meetings the R.O. Sonbhadra was directed to get the sample of the Dongia nullah and also find out the source of the water.

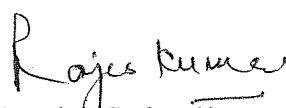
It may be mentioned here that the Committee has visited the Dongia nullah in district Sonbhadra and has taken out the sample of the flowing water. The said sample was analysed by the Central Pollution Control Board in their lab in which the mercury was found. In this regard, a report was submitted. In the report, the mercury was .0452 mg. per litre while the standard as per the E/Rules 1986 the permissible limit is .01 mg. per litre.

In the survey report of Dongia nullah prepared by Shri Rajesh Singh, Scientific Assistant, \_\_\_\_\_ Senior Engineer, Dr. S.C. Shukla Assistant Scientific Officer and submitted by Shri Radhey Shyam, R.O. Sonbhadra, wherein it is reported that in the column of waste source, discharge in nullah was from M/s Grasim Industries Ltd., Renukoot. In this

way, the survey report demonstrates that the waste water discharge found from M/s. Grasim Industries Ltd. is in Dongia nullah.

At the time of the meeting, a query was made from Shri Avinash Rai, representative of the Company, that whether there is any another source from where the mercury may come to Dongia nullah. He stated that to his knowledge, there is none but it may be possible that some discharges may be coming from other sources. The Committee is of the view that most probably the discharge of mercury in the Dongia nullah may be from the Grasim Industries wherein the mercury sludge is stored. The Committee is of the view that on the facts and circumstances the Hon'ble NGT has categorically directed the industry to shift the mercury waste brine sludge from the premises to TSDF, Kanpur and they have not been allowed to store mercury bearing brine sludge in their premises. Nine months have gone but the mercury bearing brine sludge has not yet been shifted. The order of the NGT has not been complied with. The Company is not able to show that the NGT has modified its order and, in the circumstances, the Committee is of the view that the Company has clearly violated the order of the Hon'ble NGT. In these circumstances, we propose to levy the penalty/compensation of rupees one crore which will be subject to the approval by the Hon'ble NGT.

- (6) **Water supply:** Shri Faneendra Rai, Executive Engineer, U.P. Jal Nigam states that the construction work for the supply of drinking water is in progress. The civil work for 2 STPs is in progress and the Pipeline of 18 kilometers have been laid. The work of construction of Overhead tanks will also start from the next week. The D.M., Sonbhadra states that he has visited the construction place and found that the work is in progress. We request the Jal Nigam to expedite the matter.
- (7) **Auri Morh-Shaktingar four lane road:** We have heard the Executive Engineer, PWD and SDO Forest. The D.M., Sonbhadra informed that he is looking into the matter which is already in the process of completion and all the formalities are likely to be completed within a month and thereafter the construction will immediately start.
- (8) **Stone crushers:** Matter discussed, R.O. seeks some time to furnish the report.

  
(Justice Rajes Kumar)  
Chairman  
Oversight committee