

**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI**

(Under Section 18 read with Section 14 of the National Green
Tribunal Act, 2010)

ORIGINAL APPLICATION NO. 269 OF 2025

IN THE MATTER OF:

Association of Fly Ash Products Manufacturers (AFAPM)
... Applicant

Versus

Ministry of Environment, Forest & Climate Change & Ors.
... Respondents

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Place: New Delhi

Date: 30.04.2026

**BEFORE THE HON'BLE NATIONAL GREEN
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... Respondent

**REJOINDER TO THE REPLY FILED BY THE
RESPONDENT NO. 4**

MOST RESPECTFULLY SHOWETH:

PRILIMINARY SUBMISSIONS:

1. That at the outset, it is respectfully submitted that the Reply filed by Respondent No. 4 – Central Pollution Control Board (CPCB) is wholly evasive, non-responsive and devoid of any substantive rebuttal to the issues raised in the present Original Application. The answering Respondent has failed to deal with the core concerns relating to monitoring, verification and enforcement of fly ash utilisation, which lie at the heart of the present proceedings. Being the central statutory regulatory authority entrusted with pollution control, CPCB was expected to place material facts and data before this Hon'ble Tribunal; however, the reply is conspicuously silent on all material aspects.
2. That a bare perusal of the CPCB reply demonstrates that the answering Respondent has largely avoided addressing the

issues by terming several averments as “matter of record”, by stating that certain issues require no response, and by shifting responsibility to other authorities. Such an approach clearly reflects non-application of mind and an attempt to evade statutory responsibility. The CPCB has not specifically dealt with any of the allegations concerning failure of monitoring, absence of verification, or lack of enforcement, thereby rendering its reply merely formal and not substantive.

3. It is respectfully submitted that CPCB is not a passive or peripheral authority, but the apex pollution control body in the country, vested with statutory powers and obligations under the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, and the Water (Prevention and Control of Pollution) Act, 1974. These powers include monitoring pollution sources, ensuring compliance with environmental norms, issuing directions, maintaining environmental data, and coordinating with State authorities. Despite such wide powers, CPCB has failed to demonstrate how these statutory functions have been discharged in the context of fly ash utilisation.
4. That the most critical failure of CPCB lies in the complete absence of any independent audit or verification mechanism with respect to utilisation of fly ash by Thermal Power Plants (TPPs). It is submitted that CPCB is required to monitor and verify utilisation of fly ash on a periodic basis; however, not a single credible annual audit report or independent verification has been placed on record. In the

absence of such verification, TPPs are left to self-report their utilisation figures, many of which claim 100% utilisation, without any independent scrutiny.

5. That this has resulted in a false and misleading regulatory narrative, where, on paper, complete utilisation is claimed, while on the ground, substantial quantities of fly ash continue to be dumped in ash ponds, stored in slurry form, and remain unutilised for prolonged periods. The continued existence and expansion of ash ponds itself is a clear indicator that the objective of 100% utilisation has not been achieved in reality. CPCB has failed to explain whether any independent verification of such claims is carried out, whether physical inspections of ash ponds are undertaken, whether discrepancies between reported and actual utilisation are identified, and whether any action has been taken against TPPs for false or inflated reporting. The complete silence on these aspects amounts to a tacit admission of regulatory failure.
6. That the CPCB itself refers to the existence of guidelines relating to ash pond management, design, operation and annual certification (page 4). However, the mere existence of guidelines cannot be equated with compliance. No material has been placed on record to demonstrate that such guidelines are being effectively implemented, that inspections or certifications are actually carried out, or that any enforcement action has been taken in cases of violation. The ground reality, as reflected in continued ash accumulation, clearly shows that such guidelines remain largely unimplemented.

7. That the attempt of CPCB to shift responsibility onto State Pollution Control Boards, local authorities or other agencies is legally untenable. While implementation may involve multiple authorities, CPCB, being the apex body, is duty-bound to coordinate, supervise and ensure uniform enforcement across the country. It cannot escape its statutory obligations by merely referring to decentralised roles. The absence of any centralised monitoring mechanism or coordinated enforcement framework clearly demonstrates abdication of responsibility at the highest level.
8. It is further submitted that CPCB has failed to establish the existence of any effective monitoring or enforcement mechanism. There is no indication of any real-time monitoring system, no verification protocol, no centralised database correlating ash generation with actual utilisation, and no penal framework for non-compliance. As a result, the entire system has degenerated into a self-certification regime, where compliance is merely claimed and not verified, enforcement remains illusory, and violations go unchecked.
9. That in fact, the reply filed by CPCB, instead of rebutting the case of the Applicant, reinforces it. The absence of data, absence of audit, absence of monitoring and absence of enforcement clearly establish that the regulatory framework is ineffective in practice. The CPCB's inability to demonstrate any concrete action or outcome only confirms the existence of a regulatory vacuum in the field of fly ash utilisation.

It is submitted that such failure on the part of CPCB amounts to abdication of statutory duty, violation of the principles of environmental governance, and failure to implement the objectives of the Environment (Protection) Act, 1986. Environmental regulation cannot be reduced to mere issuance of guidelines without ensuring their implementation in letter and spirit.

10.In view of the above, it is most respectfully submitted that CPCB has failed to discharge its statutory mandate, and the existing framework has become ineffective in absence of monitoring and enforcement. The situation warrants urgent intervention by this Hon'ble Tribunal to ensure that the regulatory regime is made meaningful and effective in practice. It is, therefore, necessary that appropriate directions be issued to mandate independent and periodic audit of fly ash utilisation, ensure physical verification of ash ponds, introduce accountability for false reporting by Thermal Power Plants, and establish a robust, transparent and enforceable monitoring mechanism across the country.

PARA WISE REPLY

11.That the contents of Para 1 to 4 as stated are not denied to the extent of procedural narration; however, it is respectfully submitted that the present reply is purely formal, evasive and does not deal with the substantive issues raised in the OA. The answering Respondent has failed to discharge its obligation of placing material facts before this Hon'ble Tribunal.

While CPCB has elaborated upon its statutory constitution and functions, it has conspicuously failed to demonstrate how such statutory powers have actually been exercised in the context of monitoring, verification and enforcement of fly ash utilisation, which constitutes the core issue in the present OA.

The averment that SPCBs/PCCs are responsible for implementation is misleading and legally untenable. CPCB, being the apex regulatory authority, is duty-bound to ensure uniform monitoring, coordination and enforcement across the country, and cannot dilute or abdicate its statutory responsibility by shifting it to subordinate authorities.

The general denial of allegations is vague and non-specific. CPCB has failed to specifically rebut any of the material averments relating to failure of monitoring, absence of audit, and lack of enforcement, thereby rendering the reply deficient and non-responsive.

12. That the contents of Para 5 and 6 as stated do not call for any comments to the extent they are matter of record. Rest of the contentions as stated are wrong hence denied. The answering Respondent has sought to avoid its responsibility by stating that the issues require adjudication. This approach is untenable as CPCB, being a statutory authority, is obligated to **assist this Hon'ble Tribunal by placing factual and technical data** relevant to the subject matter.

It is submitted that CPCB has **failed to place any verified data or analysis regarding fly ash generation, actual utilisation, monitoring mechanisms or**

compliance levels, which clearly reflects non-discharge of its statutory duty.

13. That the contents of Para 7 as are denied to the extent they suggest effective implementation. It is respectfully submitted that mere existence of notifications, guidelines and regulatory framework does not establish compliance. CPCB has failed to place on record any material to show that **(1)** utilisation figures are independently verified, **(2)** monitoring is conducted in a systematic manner, or **(3)** compliance is ensured through enforcement action. The assertion that fly ash is being utilised in various sectors is generic, unsubstantiated and unsupported by ground-level verification.

Further, CPCB itself refers to guidelines relating to ash pond management and annual certification ; however, no material has been placed to demonstrate that **(1)** such certification is actually being carried out, **(2)** inspections are conducted, **(3)** violations are identified and acted upon. Existence of guidelines without implementation renders the entire framework illusory.

14. That the contents of Para 8 as stated are wrong hence denied. CPCB has attempted to shift responsibility to State authorities and local bodies, which is legally unsustainable. While implementation may involve multiple agencies, CPCB, being the apex body, is duty-bound to **(1)** monitor compliance across States, **(2)** verify adherence to environmental norms, **(3)** ensure coordinated enforcement.

However, CPCB has failed to demonstrate the existence of **(i)** any centralised monitoring framework, **(ii)** any verification mechanism for compliance, or **(iii)** any action taken for violation of fly ash utilisation norms. This, clearly reflects abdication of statutory responsibility.

15. That the contents of Para 9 to 13 as stated are wrong hence denied. CPCB cannot evade its statutory obligation by stating that issues raised do not require comments. The issues relating to **(1)** environmental impact of non-utilisation, **(2)** continued reliance on red bricks, and **(3)** deficiencies in the regulatory framework; are directly connected to CPCB's statutory functions.

The stand that no response is required to the grounds and prayers is indicative of complete non-application of mind and failure to assist this Hon'ble Tribunal, and deserves to be rejected.

It is most respectfully submitted that CPCB has completely failed to address the most crucial issue, namely, monitoring and verification of fly ash utilisation by Thermal Power Plants (TPPs).

CPCB is required to monitor utilisation of fly ash on a periodic and independent basis. However, CPCB has not placed on record even a single credible annual audit or independent verification report confirming actual utilisation. In absence of such verification, TPPs are left to self-report utilisation figures, many of which claim "100% utilisation", without any independent scrutiny or validation.

The ground reality, however, is entirely different, inasmuch as **(1)** large quantities of fly ash continue to be dumped in ash ponds, **(2)** disposal through slurry continues, and **(3)** legacy ash remains unutilised for extended periods. This clearly establishes a fundamental disconnect between reported utilisation and actual ground situation, which CPCB has failed to address through any independent monitoring mechanism.

CPCB has not clarified **(1)** whether physical inspections of ash ponds are conducted; **(2)** whether discrepancies in reporting are identified; **(3)** whether any penal action has been taken against TPPs for false or inflated claims. Such complete silence amounts to an admission of regulatory failure.

It is further submitted that CPCB has failed to demonstrate **(1)** any instance of penal action for non-compliance, **(2)** any system for verification of utilisation claims, or **(3)** any framework for fixing accountability on defaulting entities. As a result, the regulatory framework has effectively degenerated into a self-certificatory regime, where **(1)** compliance is merely claimed, **(2)** verification is absent, and **(3)** violations go unchecked. Such a system is contrary to the very purpose of environmental regulation and renders statutory provisions non-enforceable in practice.

Thus, the CPCB reply is evasive, non-specific and fails to address the core issues raised in the OA. On the contrary, the reply itself establishes: **(a)** absence of monitoring **(b)** absence of audit **(c)**

absence of enforcement (d) shifting of responsibility. It is therefore respectfully submitted that CPCB has failed to discharge its statutory obligations, and the issues raised by the Applicant stand fully substantiated.



APPLICANT

THROUGH

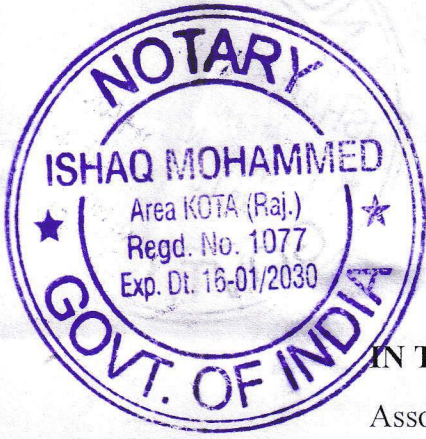
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Date: **30.04.2026**
New Delhi

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SERIAL NO. 237
DATE: 30/1/24

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Versus

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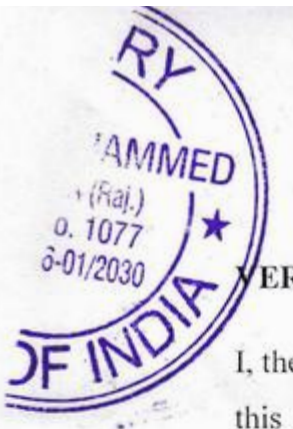
AFFIDAVIT

I, Rajendra Singh S/o Late Ramnarayan Singh, aged about 59 years R/o 7C 13, Mahaveer Nagar Extension, Kota (Rajasthan)-324009, do hereby solemnly affirm and states as under;

1. That I am the founder member of the applicant association and has been duly authorized to file the present OA and as such I am well conversant with the facts and circumstances of the present case and is competent to swear this present affidavit.
2. That I have gone through the contents of the accompanying Rejoinder to Reply filed by Resp.No.4 CPCB. The same has been drafted as per my instructions. The contents of the same are true and correct to the best of my knowledge and nothing material has been concealed there from.

ATTESTED
ISHAQ MOHAMMAD,
NOTARY, KOTA (RAJ)
30/1/24


DEPONENT



VERIFICATION

I, the deponent above named do hereby verify that the contents of this affidavit are true and correct to the best of my knowledge derived from the records and nothing relevant has been concealed therefrom. Verified at Kota, Rajasthan on this 30th day of April, 2026.

[Signature]
DEPONENT

IDENTIFIED BY
Maahish

*हदीस - 2007/2019
म. निकास 21/2021
30/4/2026
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3705*

ATTESTED
[Signature]
ISHAQ MOHAMMAD
NOTARY, KOTA (RAJ.)
20/4/26

Service in OA No. 269 of 2025 titled as "Association of Fly Ash Products Manufacturers (AFAPM) vs MoEF & CC & Ors.

1 message

V.K. Shukla <madhavnassociates@gmail.com>

Thu, Apr 30, 2026 at 3:57 PM

To: mscb.cpcb@nic.in

Cc: "V.K. Shukla" <vkslawoffices@gmail.com>

To,
Member Secretary
CPCB
Parivesh Parivesh Bhawan, East Arjun Nagar,
Delhi – 110032

Sir,
PFA copy of rejoinder to your reply filed on behalf of CPCB (Respondent No.4) in the abovesaid OA.
Regards.

--

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**Rejoinder to R-4.pdf**

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