

BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL

WESTERN ZONE BENCH, PUNE

APPEAL NO. 166/ 2024

REJOINDER OF THE APPLICANTS

IN THE MATTER OF -----

APPLICANTS/ APPELLANTS: -

1. MRS PRACHI AMIT MAHURKAR, AGE:-49
YEARS, OCCUPATION:-PRIVATE SERVICE,
ADDRESS:-4TH FLOOR, PLOT NO:-211, NEAR
BABHULKAR HOSPITAL, SHANKAR NAGAR,
NAGPUR, MAHARASHTRA-440010; MOBILE
NO. :- 9823612468
2. DR SUDHIR BHASKARRAO AGHAO ; AGE: 45
YEARS; OCCUPATION: MBBS DOCTOR;
ADDRESS: "YASHODA HOSPITAL", 5 -
GAJANAN NAGAR, MANEWADA, BESA,
NAGPUR; AADHAR CARD: 4707 3399 8447; MOB
NO: 9822202433
3. DR AMJAD KHAN; AGE: 48 YEARS;
OCCUPATION: MANAGEMENT



PROFESSIONAL; ADDRESS:- S/O MEHBOOB
KHAN, NEAR LOKPRIYA SCHOOL, OPPOSITE
DINSHAW'S ICE CREAM FACTORY,
GOREWADA ROAD, BORGAON, NAGPUR-
440013; EMAIL-ID-

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8777 6534 5855; MOB NO: 8411973654

4. ALERT CITIZENS FORUM, NAGPUR; THROUGH
ITS SECRETARY MOHD JUNAID ISMAIL ; AGE:
43 YEARS; ADDRESS: PLOT NO.85A GANDHI
LAYOUT, JAFAR NAGAR, NAGPUR 440013;
AADHAR CARD: 2237 1067 0013; MOBILE NO:
9665021225

VERSUS

RESPONDENTS:-

1. **UNION OF INDIA**, THROUGH ITS SECRETARY,
MINISTRY OF ENVIRONMENT FOREST &
CLIMATE CHANGE, INDIRA PARYAVARAN
BHAWAN, JORBAGH ROAD, NEW DELHI – 110
003 Email-id:- secy-moef@nic.in/
secy_moef@nic.in



2. **UNION OF INDIA** THROUGH ITS SECRETARY,
MINISTRY OF POWER, SHRAM SHAKTI BHAVAN,
RAFI MARG, NEW DELHI-110001. Email-id:- [secy-power@nic.in/ secy_power@nic.in](mailto:secy-power@nic.in)
3. **THE MAHARASHTRA POLLUTION CONTROL BOARD** THROUGH ITS MEMBER SECRETARY, KALPATARU POINT, 3RD AND 4TH FLOOR, ROAD NO. 8, SION CIR, OPP. PVR THEATER, MUMBAI, MAHARASHTRA 4000223.
Email-id:- ms@mpcb.in
4. **MAHARASHTRA STATE POWER GENERATION CO. LTD.** THROUGH ITS CHAIRMAN & MANAGING DIRECTOR, OFFICE ADDRESS-PRAKASHGAD, PLOT NO. G-9, BANDRA (EAST) MUMBAI-400 051. Email-id:- md@mahagenco.in
5. **THE DISTRICT MAGISTRATE/ DISTRICT COLLECTOR**, CIVIL LINES, NAGPUR – 440001
Email-id:- collector.nagpur@maharashtra.gov.in
6. **THE CHIEF EXECUTIVE OFFICER**, ZILLA PARISHAD, NAGPUR-440001 Email-id:- admin@nagpurzp.com



7. **THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, UDYOG BHAVAN, CIVIL LINES, NAGPUR-440001** Email-id:-
didicnagpur@maharashtra.gov.in

REJOINDER OF THE APPLICANTS IN APPEAL UNDER SECTION 16 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010 CHALLENGING THE ENVIRONMENTAL CLEARANCE DATED 19.09.2024 GRANTED FOR THE PROPOSED 2X660 MW SUPERCRITICAL THERMAL POWER PLANT AT KORADI

(1) The Applicants are concerned citizens, who are aggrieved by the Environmental Clearance (EC) dated - 19.09.2024 issued by the Ministry of Environment, Forest and Climate Change (MoEF & CC) in Favor of M/s. Maharashtra State Power Generation Company Limited (MAHAGENCO) for the construction of a 2x660 MW coal-based Supercritical Thermal Power Plant within the premises of the existing 2190 MW Koradi Power Plant, the impugned EC violates the Environment (Protection) Act, 1986, the EIA Notification, 2006, and the principles of



sustainable development, precautionary principle, and intergenerational equity as recognized by the Hon'ble Supreme Court. The applicants are residents of Nagpur and are residing within 10 kms of radius from the power plant and hence espousing this cause to save environment.

(2) The Applicants are aggrieved by the Environmental Clearance Order dated 19.09.2024 (**ANNEXURE-01**) granted by Ministry Of Environment Forest & Climate Change (hereinafter referred to as MoEF & CC for the sake of brevity) to M/s. Maharashtra State Power Generation Company Limited (hereinafter referred to as MAHAGENCO for the sake of brevity) for the 2x660 MW Coal-based Supercritical Thermal Power Plant at Koradi, Nagpur, Maharashtra (hereinafter "the Project" for the sake of brevity).

(3) The Respondent No.4 has established coal based Thermal Power Stations at Koradi Dist Nagpur, Khaparkheda Dist Nagpur, Chandrapur, Paras Dist Akola, Bhusawal Dist. Jalgaon, Parli District Beed and Eklahare Dist. Nasik. Thermal Power Station at Koradi in Nagpur district is having 3x660 MW, 2x210 MW, having total installed capacity of 2400 MW. One unit of 210 MW is



presently not in operation. The MAHAGENCO has an installed capacity of 13152.06 MW, nearly 75%, i.e. 9540 MW of which is produced by coal based thermal power plants. Out of the 9540 MW of electricity produced by MAHAGENCO, 6450 MW of electricity is produced only in the districts of Nagpur and Chandrapur in the Vidarbha region of Maharashtra. A total of around 70% of the electricity for the State of Maharashtra produced by MAHAGENCO is produced only in 2 districts which are adjacent to each other. Present generation is Koradi 2190 MW, Khaparkheda 1340 MW, Chandrapur 2920 MW. Apart from these there are several independent power plants IPPs in Nagpur and Chandrapur Districts.

(4) That the Respondent No.4 applied for Environmental Clearance for the 'Koradi 2 x 660 MW' thermal power project to be located at the existing Koradi Thermal Power Station. The Ministry of Environment, Forest and Climate Change (MoEF&CC) issued the Terms of Reference (TOR) via letter No: J-13012/11/2019 dated 26.06-.2020. The same copy of the letter No: J-13012/11/2019 dated 26.06.2020 is marked and annexed as **ANNEXURE -2**.



(5) It is submitted that the respondent no:-04 has procured the approval from the Maharashtra Electricity Regulatory Commission (MERC) [in-principle approval] for the proposed expansion of the project in Case No 230/2019 dated 04.09.2019. The copy of the MERC Order dated 04.09.2019 is marked and annexed as **ANNEXURE-3**. The project aims to replace *Unit 5* of the existing *200 MW* unit at Koradi TPS and six old thermal generating units in other parts of Maharashtra, with a total capacity of *1320 MW* at Koradi as *Unit Nos. 11 and 12*, subject to certain conditions. The MERC has permitted the replacement of existing 200 MW unit no 5 in Koradi TPS premises and granted **in principle approval to replace six old thermal generating units** located elsewhere in Maharashtra having total generating capacity of 1250 MW with 2x660 MW totalling 1320 MW at Koradi as unit nos 11 and 12, subject to certain conditions.

(6) At the time of the power station's establishment in the 1970s, Nagpur City was approximately 15 Kms away. However, rapid urbanization occurred after the Urban Development Department of the Government of Maharashtra notified new boundaries for Nagpur



Metropolitan Area in July 1999, which included Kamptee Tehsil. Consequently, Koradi has now become virtually a part of Nagpur City.

(7) Due to long-term coal availability from these captive blocks, MAHAGENCO launched a large capacity addition program, intending to add over 15,000 MW through new coal-based power plants. The planned projects included expansions at Bhusawal, Koradi, Chandrapur, and Parli. These projects were expected to significantly boost Maharashtra's power generation capacity. It is further submitted that earlier MAHAGENCO had applied for grant of Environmental Clearance to MoEF wide letter no C.G.M./CEHSU/2X800MW proj/Koradi Expn./187 dated 07.04.2007 for **2x800 MW Koradi** expansion. The MoEF granted Terms of Reference TOR wide letter no J-13012/87/2007-IA.II(T) dated the 12.07.2007 on certain terms and conditions.

(8) It is submitted that the Respondent No. 3 organized Environmental Public Hearing on 25.03.2009 at MIDC Hall, Udyog Bhawan, Civil Lines Nagpur for expansion of KORADI THERMAL POWER PLANT. The Document For Public Hearing justified the Koradi location on false



assumption that “**REQUIREMENT OF POWER**” in Maharashtra State is less than the production. But it is necessary to mention that VIDARBHA is always surplus in production of electricity and the power is transmitted to other states at the cost of “health” of citizens at Nagpur.

**NON- INSTALLATION OF FGD AT KORADI,
NAGPUR AND VIOLATION OF CONDITIONS**

(9) The MOEF granted Environmental Clearance, EC by letter No J -13012/87 /2007-IA.II (T) dated **04.01.2010** to 3x660 MW Koradi Thermal Power Plant on conditions mentioned such as_____

(i) **FGD with one unit of 660 MW will be installed initially to begin with and the requirement, if any, for the installation of FGD system with the other two units will depend upon the prevalent ambient levels of SO₂. Provision for installation for FGD in all units shall be made.**

(ii) Hydro-geological study of the area shall be reviewed annually and results submitted to the Ministry and concerned agency in the State Govt. In case adverse impact on ground water quantity



and quality is observed, immediate mitigating steps to contain any adverse impact on ground water shall be undertaken.

- (iii) Minimum required environmental flow suggested by the Competent Authority of the State Govt. shall be maintained in the Channel/ Rivers even in lean season. It shall be ensured that natural drainage in the region is not disturbed due to activities associated with operation of the plant.
- (iv) A Tri-Flue stacks of 275 m height each shall be provided with continuous online monitoring Equipments for SO_x, NO_x and PM. Exit velocity of flue gases shall not be less than 22 m/sec. Mercury emissions from stack shall also be monitored on periodic basis.
- (v) High Efficiency Electrostatic Precipitators (ESPs) shall be installed to ensure that particulate emission does not exceed 50 mg/Nm³.
- (vi) Adequate dust extraction system such as cyclones/ bag filters and water spray system in dusty areas such as in coal handling and ash



handling points, transfer areas and other vulnerable dusty areas shall be provided.

- (vii)** Utilization of 100% Fly Ash generated shall be made from 4th year of operation of the proposed expansion. Status of implementation shall be reported to the Regional Office of the Ministry from time to time.
- (viii)** Fly ash shall be collected in dry form and storage facility (silos) shall be provided. 100% fly ash utilization shall be ensured from 4th year onwards. Unutilized fly ash shall be disposed off in the ash pond in the form of slurry form. Mercury and other heavy metals (As,Hg, Cr, Pb etc.) will be monitored in the bottom ash as also in the effluents emanating from the existing ash pond. No ash shall be disposed off in low lying area.
- (ix)** A sewage treatment plant shall be provided and the treated sewage shall be used for raising greenbelt/plantation.
- (x)** The proponent shall upload the status of compliance of the stipulated EC conditions,



including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MOEF, the respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely, RSPM (PM₁₀ & PM_{2.5}), SO₂, NO_x (ambient levels as well as stack emissions) shall be displayed at a convenient location near the main gate of the company in the public domain.

- (xi)** The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well by e-mail) to the respective Regional Office of MOEF, the respective Zonal Office of CPCB and the SPCB.
- (xii)** The environment statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with



the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of the Ministry by e-mail.

- (xiii)** Regional Office of the Ministry of Environment & Forests will monitor the implementation of the stipulated conditions. A complete set of documents including Environmental Impact Assessment Report and Environment Management Plan along with the additional information submitted from time to time shall be forwarded to the Regional Office for their use during monitoring. Project proponent will upload the compliance status in their website and up-date the same from time to time at least six monthly basis. Criteria pollutants levels including NOx (from stack & ambient air) shall be displayed at the main gate of the power plant.

The copy of the letter No J -13012/87 /2007-IA.II (T) dated **04.01.2010** is marked and annexed herewith as ANNEXURE-7.

- (10)** It is submitted that MAHAGENCO did not commission the project within 5 years from date of EC and



applied for extension of EC which was subsequently extended till 07/12/2017 by MoEF & CC. However, even after extensions after extension, MAHAGENCO has not complied with the terms of the EC dated 04-01-2010 for 3 X 660 MW PLANT and the environment is being continuously degraded resulting serious health hazard to the life of the citizens in Nagpur and surrounding areas. The respondent no:-04 has failed to install the FGD SYSTEM, even till today. The work order or letter of award was granted to M/s Shapoorji Pallonji and Company Ltd on **16-11-2023** for Design, Engineering, Manufacture, Assembly, Testing, Works, Supply, Errection and Commissioning of FGD SYSTEM for a consideration of Rs.1345/ Cr. The copy of WORK ORDER/ LETTER OF AWARD given to M/s Shapoorji Pallonji and Company Ltd on **16-11-2023** is enclosed as **ANNEXURE-20**. But in spite of such WORK ORDER it is found and observed that FGD SYSTEM is not yet installed and it is learnt that the said WORK ORDER is also cancelled. All other conditions of EC are also violated and there are repeated violations of Environmental Norms.



(11) The MPCB has issued “CONSENT TO ESTABLISH” on 03-05-2025 during the pendency of this appeal without verifying the “non-compliance” and “violation” of EC Conditions dated 04-08-2010 for 3 X 660 MW Koradi Thermal Power Plant. It is submitted that MPCB has failed to check the repeated pollution caused by the respondent no:-04 and in spite of giving several “show cause notices” in last 10 years have also granted “CONSENT TO ESTABLISH” on 03-03-2025.

(12) It is further submitted that aggrieved by above EC certain citizens and NGOs filed appeal before National Environment Appellate Authority under Section 11 of the National Environment Appellate Act, 1997. The appeal was transferred to National Green Tribunal as *Appeal No. 7 of 2011 (T) KRISHI VIGYAN AROGYA SANSTHA VS UNION OF INDIA* and finally decided by Principal Bench at New Delhi by order dated 20.09.2011. [The copy of the Order dated 20.09.2011 is marked and annexed as **ANNEXURE-08.**] The Tribunal observed that while granting environment clearance to the project, the following aspects were not considered by the Expert



Appraisal Committee/Ministry of Environment and Forests:

- I) Impact of nuclear radiation caused by thermal power plant on human habitation and ecology of the area
- II) The Tribunal relied on various research publications on Radioactivity submitted by the appellants, which highlighted the fact that the waste produced by the coal plants is more radioactive than that generated by the nuclear power plants which can result into severe environment and human health problems. The Tribunal observed that the issue with regard to effect of nuclear radiation on human population and ecology in and around the area was raised in the public hearing but the same was neither examined nor incorporated in the final Environment Impact Assessment report.
- III) Cumulative impact of various existing and proposed thermal power plants in and around the project area.



IV) The Tribunal issued the following directions to the Ministry of Environment & Forests and disposed of the appeal with liberty to the Appellants to take appropriate steps if the same are not complied with.

(13) The first respondent, Ministry of Environment and Forest has failed to see long term impacts caused by nuclear radiation from the thermal power projects, by instituting an scientific long term study involving Bhabha Automatic Research Agency or any such other recognized scientific institution dealing with nuclear radiation with reference to the coal ash generated by thermal power project, particularly the cumulative effect of a number of thermal power project located in the area on human habitation and environment and ecology.

- i. The Ministry of Environment and Forest shall direct the proponent to synchronize the commissioning of the project with that of the Sewage Wastewater Treatment plant, treated water from which is proposed to be used for the operation of the project. Until, there is such synchronization, NO CONSENT TO OPERATE



SHALL BE issued by the Maharashtra State Pollution Control Board and the Board shall monitor the mitigating measures suggested in the Environmental Clearance.

- ii. The Ministry of Environment and Forest shall include in the Terms of Reference of all the future projects asking the proponent to furnish details of possible nuclear radioactivity levels of the coal proposed to be used for the thermal power plant.
- iii. The Ministry of Environment and Forests shall get the national standards prescribed, if not already available, from the Department of Atomic Energy, Govt. of India within a period of one year from the date of receipt of this order, as to permissible levels of nuclear radiation in residential, industrial and ecologically sensitive areas of the country.

It is submitted that these important directions issued by NGT are still not followed by the Respondents and health of the citizens of Vidarbha Region is at serious risk. Therefore the original petitioner NGO Krishi



Vigyan has also filed contempt petition before this Hon'ble Tribunal, which is also pending.

(14) The proposed 2x660 MW coal-based supercritical thermal power plant expansion at Koradi by MAHAGENCO faces significant legal and environmental challenges that call into question the validity of its environmental clearance. Two ongoing court cases - a PIL in Bombay High Court [**PIL NO:-51/2023**] challenging the public hearing and environmental non-compliance of the existing plant, and a case in the NGT regarding non-compliance of EC conditions for the existing 3x660 MW plant - highlight serious concerns about MAHAGENCO's environmental track record.

(15) Additionally, three pending show cause notices against the existing project for various non-compliances further underscore the company's failure to adhere to environmental norms. These legal issues, coupled with the proximity of the project site to the Balasaheb Thackeray Gorewada International Zoological Park, Nagpur also known as Gorewada Zoo and Wildlife Rescue Center (just 5.28 km away), raise substantial doubts about the thoroughness of the environmental impact assessment and



the project's potential adverse effects on nearby protected areas. The respondent no:-04 has failed to give satisfactory reply to following points:-

- i. The Koradi Thermal Power Plant received Environmental Clearance (EC) on January 4, 2010 for its 3x660 MW expansion. The EC included several conditions, such as installing a Flue Gas Desulfurization (FGD) system, using high-efficiency Electrostatic Precipitators (ESPs), achieving 100% fly ash utilization, implementing a closed cycle cooling system, creating a green belt, and establishing a Corporate Social Responsibility (CSR) program. These conditions are still not complied.
- ii. An appeal against the EC was filed and later transferred to the National Green Tribunal (NGT). On September 20, 2011, the NGT issued an order directing a study on nuclear radiation impacts from coal ash, mandating synchronization of the plant's commissioning with a sewage treatment plant, and requiring



the inclusion of nuclear radioactivity levels of coal in future project Terms of Reference. The NGT also ordered the establishment of national standards for permissible nuclear radiation levels. These directions are still not followed in APPEAL NO:-07/2011.

- iii. In the years following the EC and NGT order, several compliance issues have emerged. After 13 years, the FGD system has not been installed as required. The plant has failed to achieve 100% fly ash utilization. The NGT's directions regarding studies on nuclear radiation have not been followed. These non-compliance issues have resulted in show cause notices and bank guarantee forfeitures from the Maharashtra Pollution Control Board (MPCB) and the Ministry of Environment, Forest and Climate Change (MoEF & CC).
- iv. The Koradi Thermal Power Plant has been operational for 7-8 years without full compliance with EC conditions and NGT directives. This situation has raised concerns



about environmental degradation and potential health hazards in the Nagpur area. Questions have been raised about the appropriateness of permitting additional units at the plant without first ensuring full compliance with existing environmental regulations and court orders.

- v. In July 2019, the MoEF & CC ordered a site visit by a sub-committee to address issues related to pollution levels, emissions, cumulative impact, and implementation of pollution control equipment. The sub-committee visited Koradi from August 1-3, 2019, during peak monsoon rains when pollution levels are typically minimal. It is alleged that MAHAGENCO deliberately closed down all units of the power plant during this visit to conceal the actual pollution levels.
- vi. The ongoing issues at the Koradi Thermal Power Plant highlight the challenges in balancing industrial development with environmental protection and public health



concerns. They also underscore the need for more stringent enforcement of environmental norms and regulations in India's power sector. The Koradi Thermal Power Station (KTPS) operated by MAHAGENCO has failed to properly utilize fly ash, leading to the Maharashtra Pollution Control Board (MPCB) levying an Environmental Compensation of **Rs. 13,19,23,023** in July 2020. This was in compliance with a National Green Tribunal order from February 2020 regarding non-utilization of fly ash. The Hon'ble NGT, Delhi in the Case No:-117/2014 levied compensation for non-utilization of FLY ASH on Respondent NO:-04

- vii. MPCB has issued several prosecution notices to KTPS and forfeited bank guarantees in recent years for failure to comply with Environmental Clearance (EC) and other conditions. Show cause notices were issued by MPCB to MAHAGENCO on multiple occasions. Copies of the "SHOW CAUSE



NOTICES” issued by MPCB, NAGPUR to MAHAGENCO dated 03.12.2021, 27.01.2022, 18.07.2022, 21.07.2023 collectively marked and annexed as **ANNEXURE-10**.

viii. That, in spite of noncompliance of EC conditions Respondent No 3, MAHAGENCO decided to set up two more units of 660 MW at Koradi and applied on 20.04.2019 to Respondent No. 1 for grant of Terms of Reference, ToR.

ix. That, in spite of noncompliance of EC conditions Respondent No. 4, MAHAGENCO decided to set up two more units of 660 MW at Koradi and applied to Respondent No.3, Maharashtra Pollution Control Board to conduct Environmental Public Hearing for Environmental Clearance of proposed 2 X 660 MW “Supercritical Thermal Power” Project at Village Koradi by letter no ED(E&S)/Koradi 2x660 MW Project/Conduction of PH/31 dated **10.04.2023** which is marked and annexed as **ANNEXURE-14**.



- x. In Vidarbha there is no need of new power plants due to pollution created by existing power plants and there is no “additional need to supply” electricity in Vidarbha as Vidarbha is surplus in production of power. The installed capacity in Maharashtra is 23,486 MW out of which 16,816 MW has been installed in Vidarbha region. The demand for Vidarbha region is 1700 MW and the surplus power is transmitted to the rest of Maharashtra. Consumption of electricity in Pune Division is higher than the Vidarbha (11 districts) region of Maharashtra. Pune and Nasik Division are reaping the benefits of power generation whereas Vidarbha Region is facing the problems of environmental pollution and resource depletion.
- xi. The respondent no:-04 has procured an order from MERC IN CASE NO:-230 OF 2019



DECIDED ON 04-09-2019 by which "in principle approval" is granted to replace SIX OLD THERMAL GENERATING UNITS having total generational capacity of 1250 MW with KORADI UNITS 11 AND 12 OF 660 MW each. The respondent no:-04 while getting this order from MERC has stated that following units will be closed:-

[1] KORADI UNIT-5

[2] NASHIK UNIT-4

[3] NASHIK UNIT-5

[4] PARLI UNIT-4

[5] PARLI UNIT-5

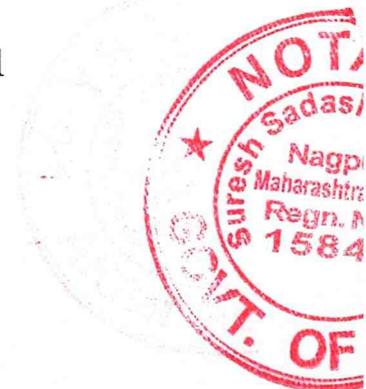
[6] CHANDRAPUR-UNIT-3

However while seeking Environmental Clearance from respondent no:-01 the respondent no:-04 has mischievously and deliberately misled the authorities and stated that following units will be closed

[1] PARLI UNIT-4

[2] PARLI UNIT-5

[3] KORADI UNIT-5



[4] CHANDRAPUR UNIT-1

[5] CHANDRAPUR UNIT-2

[6] BUSAWAL UNIT-3

It is clear that the respondent no:-04 is misleading the authorities and seeking various approvals in most illegal manner. It is necessary to submit that the “in principle approval” granted by the MERC IN CASE NO:-230/2019 can not be used for expansion of present Koradi Plant on the basis of different information and hence EC obtained is bad in law.

(16) PUBLIC HEARING NOT CONDUCTED IN ACCORDANCE WITH EIA NOTIFICATION 14-09-2006 AND 01-12-2009 AND HENCE VITIATED

- (i) **NO FAIR OPPORTUNITY TO ALL PERSONS PRESENT:-** The “Public Hearing” was conducted in most illegal fashion depriving many citizens from expressing their opinions and hence was violative of article 14, 19 of Constitution of India and in violation of EIA NOTIFICATION dated 14-09-2006 and 01-12-2009.



- (ii) **THE EIA REPORT NOT SERVED TO ALL VILLAGES IN MARATHI :-**It is clear that all the villagers present in the Public Hearing have objected to the procedure adopted by the MPCB and other respondents for conducting the Public Hearing and demanded the EIA Report and Presentation in **Marathi**. Even the EIA report was not served to all 46 villages in English and Marathi. Even according to the “Minutes of Public Hearing” held it is clear that the participants were demanding EIA REPORT in Marathi and when the objection got intense the PUBLIC HEARING was disturbed.
- (iii) **THE MINUTES OF MEETING WERE NOT READ OVER:-**The Minutes of the Public Hearing were **never read over** to the Public present as per clause 6.2 [PROCEDURE FOR CONDUCTING PUBLIC HEARING] EIA Notification 01-12-2009 in exercise of powers u/s 3 (2) (v) and 3 {1} of Environment Protection Act 1986 read with Rule 5 (3) {d} of



Environment Protection Rules 1986. [PAGE-164] The respondents have failed to submit that the "MINUTES OF PUBLIC HEARING" were ever "read over" by the Chairperson.

(iv) DRAFT EIA REPORT WAS NOT SERVED TO ALL VILLAGES/ GRANPANCHAYATS/ VILLAGERS IN "ENGLISH AND MARATHI" as per clause 2.2. of EIA NOTIFICATION 01-12-2009 AND 14-09-2006

(1) As per 2.2 The Applicant shall enclose with the letter of request, at least 10 hard copies and an equivalent number of soft (electronic) copies of **THE DRAFT EIA REPORT** with the generic structure given in Appendix III, including the Summary Environment Impact Assessment report, **in English and in the official language** of the state/local language, prepared strictly in accordance with the Terms of Reference communicated after Scoping (Stage-2). Simultaneously the applicant shall arrange to



forward copies, one hard and one soft, of the above draft **EIA Report along with the Summary EIA report to the following authorities or offices, within whose jurisdiction the project will be located:**

- a) *District Magistrate/District collector/Deputy commissioner/s*
- b) *Zila Parishad or Municipal Corporation or Panchayats Union*
- c) *District Industries Office*
- d) *Urban Local Bodies (ULBs) / PRIs Concerned / Development authorities.*
- e) *Concerned Regional Office of the Ministry of Environment and Forests*

(2) It is the stand of the respondents that the "Draft EIA" report is not required to be submitted in both languages, but the law mandates the submission of entire EIA REPORT to be submitted in ENGLISH AND OFFICIAL LANGUAGE OF THE STATE. Hence it is clear that the EIA REPORT was never submitted in MARATHI [OFFICIAL



LANGUAGE] to **all the Grampanchayats / Villages/ villagers.**

(3) It is necessary to point out that even the DRAFT EIA REPORT was also not served to all affected Villages within 10 kms of the project site and even according to the respondent no:-04 it is served to only **11 Grampanchayats** in reply filed by respondent no:-04.

(4) The respondents have failed to show even according to their own reply that **all the affected villages** and authorities were duly served with the Notice of Public Hearing along with EIA REPORT in two languages.

(5) The notice of public hearing is not circulated to all the villages that were covered under the study area of the said expansion project. There are around 43 villages of Nagpur District that will be affected with the setting up of the unit, however, the circulation and notice of public hearing were made to the smaller number of villages and also as per the Amended EIA Notification dated 01/12/2023, the



notice of public hearing must be circulated for a widest possible public participation but it was not done in this case. Following Villages are affected:-

SR. NO.	Name of Village	SR. NO.	Name of Village
1.	Koradi	27.	Khaparkheda
2.	Suradevi	28.	Mahadula
3.	Bhokhara	29.	Nanda
4.	Godhani	30.	Pipla
5.	Lonara	31.	Rohna
6.	Chicholi	32.	Walni
7.	Pardi	33.	Tamaswari
8.	Gundri	34.	Khapa
9.	Sonegaon	35.	Babulkhera
10.	Itgaon	36.	Lonkhari
11.	Silewara	37.	Rohana
12.	Singori	38.	Bina
13.	Hingna	39.	Bhanegaon
14.	Dorli	40.	Waregaon
15.	Waghora	41.	Juna Kampthi
16.	Kawtha	42.	Mhasala



17.	Khairi	43.	Khasala
18.	Bhilgaon	44.	Ranala
19.	Nara	45.	Kalmana
20.	Bailwara	46.	Nari
21.	Gumthi	47.	Sawaemendha
22.	Brahmanwara	48.	Lonkhari
23.	Mahaljhan	49.	Chikhlikhapa
24.	Bharatwara	50.	Gumthala
25.	Gorewada	51.	Ghagoli
26.	Khapri	52.	Nagpur

(v) MAJOR AUTHORITIES LIKE NMRDA, NAGPUR MUNICIPAL CORPORATION NAGPUR WAS NOT SERVED WITH NOTICE AND EIA REPORT

- (a) It was mandatory for the respondents to serve the Nagpur Metro Region Development Authority to serve the PUBLIC NOTICE AND EIA REPORT as the project comes within the jurisdiction of NMRDA. The NMRDA has 768 villages under its control and the



authority is responsible for development of the entire region including residential development and other commercial development. The residents residing in jurisdiction of NMRDA are required to take sanction of NMRDA for any development/ project and construction. The respondent no:-01, 02, 03 have failed to even submit their reply on this issue. The water bodies like Futala Lake, Ambazari Lake are under the jurisdiction of NMC and will also be severally affected and hence Nagpur Municipal Corporation was also required to be included in PUBLIC HEARING.

(vi) ATTENDENCE OF ALL PERSONS PRESENT IN PUBLIC HEARING WAS NOT RECORDED AS PER CLAUSE 6.1 OF EIA NOTIFICATION 01-12-2009 AND 14-09-2006

- (a) More than 2000 persons were present in Public Hearing on 29-05-2023 but



signatures of all the persons were not obtained and recorded by MPCB and not produced before this Tribunal.

- (b) It is submitted that the law mandates to record "attendance of all" those persons who are present at the venue "shall" be noted and annexed with the final proceedings [CLAUSE 6.1 OF EIA NOTIFICATION] It is imperative for the Chairman of Public Hearing [COLLECTOR] to record attendance of all the persons present on venue and annex it with Minutes of Public Hearing, but even according to the respondents attendance was secured only of 1173 persons and others were prevented from signing the register.

(vii) OBJECTIONS OF ONLY 61 PERSONS ARE RECORDED :-

As per the Minutes of Meeting produced by the respondent no:-01 objections of only 61



persons are recorded, where as large number of people raised their objections.

(viii) THE DETAILS OF PUBLIC NOTICE, EIA REPORT IN TWO LANGUAGES WAS NOT AVAILABLE ON WEBSITE OF MPCB AND HENCE CITIZENS COULD NOT BE ACCESS AND OPPORTUNITY TO RAISE OBJECTIONS:-

- (a) That, it is pertinent to note that the details of PUBLIC NOTICE were not available at the website of MPCB or MAHAGENCO. By not hosting the details on web site large section of society was prevented from attending the Public Hearing or even sending their objections. It is submitted that EIA NOTIFICATION is issued by MOEF, NEW DELHI on 14-09-2006 and 01-12-2009 prescribing the procedure to be followed in conducting Public Hearing in exercise of powers u/s 3 (2) (v) and 3 {1} of Environment Protection Act 1986 read with Rule 5 (3)



{d} of Environment Protection Rules 1986. It was necessary to give wide publicity even on web-site with details in “electronic” mode, but the respondents have failed to give such details on web-site too.

1.0 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District -wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC).

2.0 THE PROCESS:

2.1 The Applicant shall make a request through a simple letter to the Member Secretary of the SPCB or Union Territory Pollution Control Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period. In case the project site is covering more than one District or State or Union Territory, the public



hearing is mandated in each District, State or Union Territory in which the project is located and the applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this procedure.

2.3 On receiving the draft Environmental Impact Assessment report, the abovementioned authorities except the Regional Office of MoEF, **shall** arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available the draft EIA Report for inspection **electronically** or otherwise to the public during normal office hours till the Public Hearing is over.

2.4 The SPCB or UTPCC concerned **shall** also make similar arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or



*public libraries or any other suitable location etc. They **shall** also additionally make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices as given in para 2.2.*

(viii) THE VIOLATION OF 6.4, 6.5, 6.6, 7.1 OF EIA NOTIFICATION

- (a) The persons / villagers did not get opportunity to seek information or clarifications from the project proponent in absence of "EIA REPORT" in MARATHI. It is submitted that Public Representatives were present in PUBLIC HEARING on 29-05-2023 namely Shri Vikas Thakare, Shri Mallikarjun Reddy Shri Prakash Jadhav [Former MP] and all of them objected to the execution of this project as the same is not in public interest.
- (b) The minutes of PUBLIC HEARING were not signed and read over at the end of the PUBLIC HEARING on the same day The respondent no:-01 has failed to answer these violations.



CLAUSE 6.4 Persons present at the venue shall be granted the opportunity to seek information or clarifications on the project from the applicant. The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB or UTPCC and read over to the audience at the end of the proceedings explaining the contents in the local/vernacular language and the agreed minutes shall be signed by the District Magistrate/ District Collector/ Deputy Commissioner or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned.

6.5 A statement of issues raised by the Public and Comments of the applicant shall also be prepared in the local language or the official state language, as the case may be, and in English and annexed to the proceedings



6.6 *The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction in which the project is located, office of the concerned Zila Parishad, District Magistrate / District collector / Deputy Commissioner, and the SPCB or UTPCC. The SPCB or UTPCC shall also display the proceedings on its website for general information. That the proceedings of public hearing were not prepared, published and signed within stipulated time of eight days, to be displayed at above locations.*

7.1 *The public hearing shall be completed within a period of **forty five days** from date of receipt of the request letter from the applicant. Thereafter the SPCB or UTPCC concerned shall sent the public hearing proceedings to the concerned regulatory authority **within eight days** of the completion of the public hearing. Simultaneously, a copy will also be provided*



to the project proponent. The applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned along with the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations incorporating the concerns expressed in the public hearing along with action plan and financial allocation, item-wise, to address those concerns."

The public hearing must be completed within a period of **forty five** days from date of receipt of the request letter from the applicant. Thereafter the SPCB or UTPCC concerned is required to send the public hearing proceedings to the concerned regulatory authority within **eight days** of the completion of the public hearing. However the said procedure is not followed.



(ix) FAILURE TO GIVE DIGITAL

PLATFORM:- As per MoEF & CC Office Memorandum dated **09-06-2021** the Public Hearing is also to be conducted on digital platform however, the details of WebEx meeting link, meeting number and pass word of Public Hearing was not available on website of any of the Respondents No 1 , 2 and 3. On MPCB website on Public Hearing page Advertisement Column could not be accessed as it displayed "The requested page could not be found". Therefore, large number of persons who wanted to participate on line were deliberately denied participation. The respondents have failed to give satisfactory reply to this objection.

(x) NO ACCURATE RECORDING OF THE PUBLIC HEARING

- i. The EIA notification also mandates that the summary of the public hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the



representative of the SPCB and read over to the audience at the end of the proceedings explaining the contents in the vernacular language and the agreed minutes shall be signed by the District Magistrate or his or her representative on the same day and forwarded to the SPCB concerned. This process is not followed. The petitioner no:-01 also raised the objections and objected to the project but his name and objection is not found in "MINUTES OF PUBLIC HEARING" and hence it is vitiated. The careful screening of VIDEO RECORDING of PUBLIC HEARING will substantiate the allegations of the petitioner that the "accurate recording of public hearing" was not done in The Applicant alleges that the details of the public notice were not made available on the websites of MPCB or MAHAGENCO, preventing a large section of society from attending the hearing or submitting objections. This is claimed to be in violation of the EIA Notification of 2006 and



its 2009 amendment, which prescribe procedures for conducting public hearings.

- ii. The public hearing was conducted in an illegal manner, violating the prescribed procedures for publicizing the hearing, making the draft EIA report accessible to the public, and recording and disseminating the proceedings. Based on these alleged violations, the Applicant has approached the court requesting to quash and set aside the public hearing conducted on May 29, 2023, arguing that it deprived many citizens of the opportunity to express their opinions and violated constitutional rights under Articles 14 and 19.

(17) SITE-VISIT/ INSPECTION REPORT OF EXPERTS ON 01-08-2019 AS DIRECTED BY EAC IN ITS MEETING HELD ON 28-05-2019 IS FULLY IGNORED BY EAC

- (i) That Respondent No 1 by office order dated 03-07-2019 recommended Koradi Site visit by sub-committee under chairmanship of Dr N P Shukla for



addressing issues related to pollution levels of the surrounding area, the emissions of the existing plant, the cumulative impact of Koradi and Kaperkheda Power Plant, the impact on adjacent Nagpur and Koradi towns, the status of implementation of pollution control equipment to meet revised emission norms, the availability of land without compromising the greenbelt area, etc.

(ii) It is submitted that Sub-committee visited Koradi on 01-08-2019 the petitioner no:-01 , and several other NGOs and members of civil society groups personally met the subcommittee members and submitted a detailed memorandum dated 31-07-2019.

(iii) *It is pertinent to note that subcommittee visited KTPS during 1st August to 3rd August 2019 during peak monsoon rains when there is minimal pollution also at the time of visit all units of Koradi Power Plants were deliberately closed down to show that there is no pollution*



- (iv) It is submitted that the EAC held on 29-08-2024 did not consider the serious observations of the SITE VISIT REPORT submitted by the Committee headed by Dr. N. P. Shukla and ignored the existing pollution caused by respondent no:-04 in Koradi Power Plant

**INSPECTION / SITE VISIT REPORT OF KORADI
AND KHAPERKHEDA POWER PLANTS IN
NAGPUR ON 01-08-2019 TO 03-08-2019:-**

CONTENTS/OBSERVATIONS:-

The ambient air quality reports reviewed for the Koradi Power Plant. The average PM₁₀ emissions at Power Station Railway siding consistently exceeded the standard of 100 µg/m³. Occasional increases of PM₁₀ observed at Location No.3 (Outside plant). The PM_{2.5} values in the air quality have consistently exceeded the standard of 60 µg/m³ at Arya Nagar, Bokhara and Khasala. All other parameters are within the standards. The average SO₂ and NO_x are in the range of 15-16 µg/m³ and 20-24 µg/m³. Further, ambient air



quality at Khaperkheda for PM10 is exceeding during Summer and Winter months.

ASH UTILISATION

The ash utilization from the koradi power plant for the year 2018-19 is 29%. The remaining ash is present is sent to the ash dykes. The details of coal consumption and ash generation of FY 2018-19 are as below:

Coal Consumption	64,74,079 MT
Percentage of ash	41%
Total ash generation	26,55,433 MT
Utilisation percentage	7,75,245 (29.19%)

Ash generation at Khaparkheda Power Station in the range of 17-26 Lakhs Tonnes/Annum and the utilization is in the range of 15-35%.

STATUS OF AIR POLLUTION CONTROL EQUIPMENT AND FGD INSTALLATION:

FGD for Unit-8 (1x660 MW) is to be installed during the commissioning as per the Environmental Clearance which was not installed. Subsequently, M/s MAHAGENCO



obtained extension stating that time extension of FGD for Unit-8 be extended inline with MoEF&CC Notification dated 7.12.2015, i.e. till 7.12.2017. Accordingly, Ministry vide permission dated 23.3.2017 has given extension up to 7.12.2017 to install FGD for all three units (3x660 MW). The FGDs for all three units are yet to be installed. It has been informed that Tenders for 3x660 MW (Koradi) have been published. Evaluation of Techno-economic bid is in progress. The expected date of completion is October, 2021. Note for board approval will be placed in Board Meeting of August, 2019. Tentative placement of Letter of Agreement (LoA) for 2x210 MW (Koradi) is in December, 2019 and expected date of completion is December, 2021. Further, out of 2x210 MW Koradi Units, R&M has been completed for one unit and upgradation is proposed for second unit to replace the ESP. In-principle Board approval has been given for FGD installation for 500 MW of Khaperkheda TPP. For Khaperkheda 4x210 MW, the phasing out plan is under preparation considering the life of the units and balance life.

EFFLUENT TREATMENT PLANT & AWRS:



During the visit, the Effluent Treatment Plant is not functional. The effluents from all processes are collected in guard pond and then pumped to ash slurry making without treating the effluent. Further, the effluent generated from the washing of ESP having mixed with flyash is not sent to settling pond, instead it is directly discharged into nearby drains. There are leakages observed At the ash slurry mixing unit, leakages were observed and some portion is going into the drain to discharge outside the premises.

Further, Ash Water Recycling System (AWRS) of Koradi ash pond is not functional during the visit. The overflow water is going to the adjacent drain.

TRANSPORTATION:

The pipe conveyer from Gondegaon and Bhanegaon mines to Khaperkheda and Koradi of length 16.1 km as per the Ministry's permission dated 29.5.2018 is under construction. If this pipeline is made operational, the air pollution due to road transportation will be reduced significantly.



GREENBELT:

The greenbelt has been developed inside the Koradi Plant area. The area is seen with plants with age of 1-2 years. Further, it was informed that NEERI has been engaged to do plantation in the open areas of the Koradi Power Plant. However, the greenbelt developed may not be 33% of the total area. The greenbelt around the ash dyke was also not developed. Only natural growth of thorny bushes and grass has been observed during the visit. Photographs pertaining to Power Plant are enclosed at **Annexure-A** to this report.

NGO REPRESENTATIONS:

NGOs such as Vidharbha Connect, Sangharsh Gaganyacha Jan Andolan Chalval representing Local People of Nagpur and Koradi area have made the following submissions (Representations: **Annexure-C**):-

- i. There is no shortage of power in Maharashtra. Several Power Plants are closed down for lack of demand of power.
- ii. The installed capacity in Maharashtra is 23,486 MW out of which 16,816 MW has been installed in Vidharbha region. The demand for Vidarbha region



is 1700 MW and the surplus power is transmitted to the rest of Maharashtra. Consumption of electricity in Pune Division is higher than the Vidarbha (11 districts) region of Maharashtra. Pune and Nasik Division are reaping the benefits of power generation whereas Vidarbha Region is facing the problems of environmental pollution and resource depletion.

iii. As per WHO report, Nagpur is amongst most polluted cities in Maharashtra. PM10 and PM2.5 concentrations are very high.

iv. PM 2.5 pollution has caused more than 5,00,000 deaths in India in 2015.

v. Solar potential, roof top solar, wind and other renewable energy resources are not tapped to the fullest.

vi. Nagpur District has already installed capacity of 7000 MW coal based Power Plants.

vii. Huge quantity of water meant for irrigation is diverted to power generation.



viii. More than 5,00,000 Tons of ash per day is generated which is stored in ash ponds with an area of 7000 acres and the ash utilization is negligible.

ix. If new units are installed, it will further damage the environment.

x. 500 MLD of water has been diverted for MAHAGENCO power generation and Vishwaraj Plant from Peeli Nadi, Pohro Nadi and Naag Nadi. More than half a lakh farmers sustain their livelihood from this water. These rivers are getting dried due to in-judicious use. If 500 MLD water is diverted, there is little water available for irrigation which will push the state into agrarian crisis.

CSR ACTIVITIES:

A hospital has been built by M/s MAHAGENCO in Koradi town which is helpful to the nearby villagers and may not go to Nagpur for all emergencies. The hospital is being maintained by Vivekananda Trust. The charges of consultation and treatment are very nominal and all surrounding villages can avail the facility. In addition, a latest mobile medical van and ambulance have been



sponsored by M/s Mahagenco to conduct medical camps in villages. In addition, one school and indoor sports complex has been built M/s Mahagenco.

COMMITTEE OBSERVATIONS:

- (i) The land for proposed project as mentioned in the proposal 275.39 ha is not available at the site. The actual area available is in the order of 180-200 acres. The plan for demolition of existing buildings along with the total area of available for the proposed plant is to be submitted leaving the adequate space for 2x210 MW.
- (ii) **The emission from the fluegas of Koradi Power Plant and Khaperkheda Power Plants are exceeding the standards. Action plan to bring it below the standards is to be submitted.**
- (iii) Initial installation of FGD for one unit (1x660 MW) at the time of commissioning as per the Environmental Clearance has been extended till 7.12.2017 vide Ministry vide permission dated 23.3.2017. The said permission has also given



timelines for FGD installation for remaining two units (3x660 MW). **Till date FGD has not been installed.** The significant progress of FGD is yet to be made and it is yet tender stage. The action on non-compliance of the Ministry permission 23.3.2017 is to be addressed by the Ministry.

- (iv) Firm plan for installation of FGD for new units is to be submitted. Either installation of FGD & upgradation of ESPs is to be done or phasing out plan for older units is to be provided.
- (v) Ambient Air quality in the premises of Koradi Power Plant is exceeding the national standards. The time bound action plan to bring the ambient air quality levels below the standard is to be submitted.
- (vi) Effluent Treatment Plant is not functional. The effluents are mixed with ash slurry without treatment. Further, effluents along with ash is discharged into open drains. The ETP is to be made operational to avoid discharge into open drains.
- (vii) There are no HDPE liners for the ash ponds of Koradi & Khaperkheda. Also no liners have been proposed



for the new ash pond under installation for Khaperkheda power plant.

- (viii) Ash water Recirculation unit of Koradi Ash pond be made functional.
- (ix) As the ash utilisation is only about 30%, the ash utilisation plan for existing and proposed power plants shall be submitted. The plan should also include backfilling in mine voids as the power plant is surrounded by coal mines.
- (x) No peizowells have been installed at the periphery of ash ponds for monitoring the ground water quality.
- (xi) The details of Units which have been phased out and the units yet to be phased out. The phasing out plan for the units to be phased out should be submitted.
- (xii) Tree enumeration is required for felling in the proposed area.
- (xiii) Greenbelt development plan around the ash dyke of Koradi plant is to be submitted.
- (xiv) The issues raised by the CPCB specifically installation of dust extraction systems at coal handling/transfer points, fugitive emissions from ash silo, improvement of road condition to the



approach bund of Koradi ash pond are to be addressed on priority to control ambient air quality in the surroundings in their visit during May-June, 2017.

IT IS NECESSARY TO POINT OUT THAT THE EAC IN ITS MEETING HELD ON 29-08-2024 HAS FAILED TO CONSIDER THESE OBSERVATIONS OF THE COMMITTEE AND ISSUED ENVIRONMENTAL CLEARANCE MECHANICALLY ON 19-09-2024 FURTHER PERMITTING MAHAGENCO TO POLLUTE THE NAGPUR CITY

(18) GRANT OF EC IS FUNDAMENTALLY FLAWED AND THE PROCEDURE FOLLOWED IS AGAINST THE PRINCIPLE OF “SUSTAINABLE DEVELOPMENT” AND “PRECAUTIONARY PRINCIPLE” [SECTION 20 OF NGT ACT 2010]

(i) The Environmental Clearance (EC) granted to the project is fundamentally flawed due to its failure to provide a comprehensive assessment of the project's contribution to climate change. The EC does not include any evaluation of the project's greenhouse gas



emissions or its carbon footprint. Furthermore, there is no assessment of how the project aligns with India's Nationally Determined Contributions (NDCs) under the Paris Agreement, which is critical for ensuring that India meets its international climate commitments. This failure is a clear violation of India's obligations under international law and contravenes the National Green Tribunal (NGT) Act, 2010, which mandates the consideration of environmental impacts in line with sustainable development principles. The absence of such an evaluation renders the EC invalid and in violation of India's international and domestic environmental obligations.

- (ii)** The EC process also failed to account for the cumulative environmental impact of the existing 2,190 MW power plant along with the proposed 1,320 MW expansion. This is a violation of Rule 4 of the Environment (Protection) Rules, 1986, and the Environmental Impact Assessment (EIA) Notification, 2006, which require a thorough cumulative impact assessment for such large-scale



projects. The proposed expansion, which would increase the plant's total capacity to 3,510 MW, significantly exacerbates environmental risks related to air quality, water resources, and ash management. By failing to assess these combined impacts, the EC is in clear violation of the law and cannot be sustained.

(iii) The EC was granted in spite of two ongoing legal proceedings: (i) Public Interest Litigation (PIL) No. **51/2023** pending before the Bombay High Court, challenging the legality of the public hearing conducted for the project, and (ii) Original Application (OA) No. **62/2021** pending before this Hon'ble Tribunal, concerning environmental non-compliance of the existing plant. The existence of these legal challenges directly questions the validity of the EC. Granting clearance in the face of these unresolved legal issues undermines the principles of natural justice and due process. By proceeding with the clearance while the case is sub judice, the MoEFCC has violated the principle of judicial propriety.



- (iv) Furthermore, **three show-cause notices** have been issued against the existing plant by the Ministry of Environment, Forest and Climate Change (MoEF&CC) and the Maharashtra Pollution Control Board (MPCB), and granting the EC while these notices are pending is a clear violation of the precautionary principle.
- (v) The public hearing conducted on 29th May 2023 is under judicial scrutiny in the Bombay High Court (**PIL/51/2023**), raising serious questions about its validity. The public hearing is a key procedural requirement under the EIA process, and any flaws in its conduct undermine the legitimacy of the entire EC process. Despite these pending legal challenges, the Expert Appraisal Committee (EAC) granted the EC without a substantive review of the hearing process.
- (vi) This failure to address public concerns raised during the hearing violates the principles of public participation under the EIA Notification, 2006, and the guidelines set forth by the Hon'ble Supreme Court. The EAC's superficial consideration of public



objections further taints the EC process and violates fundamental principles of natural justice.

(vii) KTPS miserably failed to utilise Fly Ash hence MPCB levied Environmental Compensation of **Rs 13,19,23,023/- (Rs thirteen Crore Nineteen Lakhs Twenty-three Thousand Twenty-three only)** by order No MPCB/JD(APC)/B-200727-FTS-0095 dated 27-07-2020. In compliance of Hon'ble NGT Order dated 12-02-2020 in Case No:- 117/2014 the respondent no:-03 as levied compensation for non-utilization of FLY ASH.

(viii) It is submitted that MPCB Regional Office has issued several prosecution notices to KTPS and also forfeited bank guarantees in last few years for failure to comply EC and other conditions. Copies of the "SHOW CAUSE NOTICES" issued by MPCB, NAGPUR to MAHAGENCO dated 03-12-2021, 27-01-2022, 18-07-2022, 21-07-2023 . THE SHOW CAUSE ISSUED BY MPCB TO KTPS ON 27-01-2022 SAYS THAT _____

WHEREAS, you are operating your Koradi Thermal Power Plant in Water Pollution Prevention



Area and Air Pollution Prevention Area under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974, and under Section 21 of Air (Prevention & Control of Pollution) Act, 1981 and Authorization under Rule 5 of the Hazardous Waste (Management & Handling) Rules, 1989 & amendments thereto.

AND WHEREAS, Board has granted Consent to Operate to your thermal power plant under Section 26 of the Water (Prevention and Control of Pollution Act, 1974; under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 and Hazardous Wastes (Management and Handling) Rules, 1989 & Amendment Rules, 2003 by stipulating conditions to be adhered by bthe industry and to comply the consent conditons stipulated therein (ref.no.1) AND WHEREAS, it is mandatory on your part to provide adequate air pollution control arrangement & water pollution control arrangement and operate & maintain it properly so as to achieve prescribed standards.



AND WHEREAS, frequent complaints regarding air & water pollution in the vicinity were received to this office from local residents/NGOs from your Koradi thermal power plant vide ref.no.(2).

AND WHEREAS, Board officials visited your unit on 26/10/2021 and reported the non-compliances of your activity. Accordingly, this office had issued Show Cause Notice to your unit vide ref. no. (4). AND WHEREAS, again Complaint was received to this office from local NGO regarding air pollution due to your thermal power plant in the vicinity.

AND WHEREAS, Board officials again visited to your unit vide ref (5) & reported the non-compliances of your activity. AND WHEREAS, to initiate further suitable action against your power plant, this office had submitted an office note through legal module to MPCB, HQ, Mumbai. AND WHEREAS, Show Cause Notice was issued from MPCB, directed to remain present at M.P.C. Board, HQ, Sion (E), Mumbai on 08/12/2021 along with your reply & relevant



documents & personal hearing was conducted on 08/12/2021 vide ref. no. (7).

AND WHEREAS, from the above non-compliances, this office has an opinion that, since long time frequent complaints regarding air pollution & water pollution due to your thermal power plant are receiving to this office being habitual defaulter. Accordingly, Board Officials visited your plant & on the basis of observed non-compliances, Show Cause Notices were issued. AND WHEREAS, in response to issued Show Cause Notice, you submitted your reply stating that, we have adopted all possible measures to strictly adhere to the existing pollution control norms.

AND WHEREAS, after examining the records, the reports of the officials of the Board and after making necessary enquiry. Board had come to conclusion that you are knowingly and wilfully violating the provisions of Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981 and Hazardous Waste (Management and Trans boundary Movement) Rules,



2016 and causing serious nuisance in terms of air & water pollution in the surrounding are being habitual defaulter.

NOW THEREFORE, you are hereby once again called upon to show cause as to why prosecution under section 15 of the Environment (Protection) Act, 1986 shall not be launched against your Koradi Thermal Power Plant as well as the persons who are held responsible for day to day affairs of your Thermal Power Plant?

You are, hereby called upon to submit your reply to this notice within 07 days from the receipt of this notice, failing which, Criminal Complaint will be filed against your unit as well as the persons who are held responsible for day to day affairs of Thermal Power Plant before the appropriate Court of Law, without giving you further notice/opportunity, which may please be noted.

However in pursuance to these various show cause notices for criminal prosecution under section 15 of EP Act 1986 {prescribing imprisonment of five



years} “no action is taken” by MPCB against the officials of MAHAGENCO for reasons best known to them. Hence it is requested that respondent no:-03, 04 be immediately directed the start criminal prosecution of Directors of MAHAGENCO for various violations of Environmental Laws.

(ix) The EC fails to incorporate adequate safeguards to control air pollution, despite the project's proximity to Nagpur city and the existing plant's documented history of non-compliance with environmental regulations. Given the scale of the expansion and the potential for increased pollution, the absence of stringent air quality control measures is a significant oversight. Additionally, the EC does not ensure compliance with the revised emission norms notified by the MoEF & CC on 7th December 2015, in violation of Rule 3(8) of the Environment (Protection) Rules, 1986. These deficiencies in the EC process demonstrate a disregard for environmental protection and public health, further undermining the validity of the clearance.



(x) The EC approved the usage of 95,040 KLD of treated sewage water for the project, without adequately assessing the reliability of this water source or its potential impact on other users. The absence of a robust evaluation regarding the long-term sustainability of this water resource raises serious concerns. Moreover, the EC does not impose a zero liquid discharge (ZLD) requirement, which is a critical measure for preventing water pollution. This failure violates the Water (Prevention and Control of Pollution) Act, 1974, and the principles laid down by the Hon'ble Supreme Court in catena of judgements, which mandate stringent water pollution control measures for industrial projects.

(xi) Despite the existing plant's history of non-compliance with ash handling norms, the EC fails to impose stringent conditions for ash management in the proposed new units. This oversight violates the Fly Ash Notification, 1999 (as amended), and the directions issued by this Hon'ble Tribunal in *Shantanu Sharma v. Union of India*, OA No. 117/2014. The lack of proper ash management



conditions in the EC raises serious environmental and public health concerns, especially given the scale of the expansion.

(xii) The existing plant has experienced significant delays in implementing Flue Gas Desulfurization (FGD) systems, which are essential for reducing sulfur dioxide emissions. The EC fails to impose strict timelines for FGD installation in the new units, in violation of the MoEF&CC's notification dated 07.12.2015. This failure to ensure timely implementation of pollution control technologies further compounds the environmental risks associated with the project.

(xiii) The EC process did not adequately explore alternative energy sources or project locations, in violation of Section 20 of the National Green Tribunal Act, 2010. Given the growing need for renewable energy sources to combat climate change, the failure to consider cleaner energy alternatives is a serious breach of the sustainable development principle. The Hon'ble Tribunal has emphasized the need for thorough consideration of alternatives to ensure that



projects do not disproportionately harm the environment or public health.

(xiv) By granting the EC despite the project proponent's history of non-compliance and the existence of pending legal issues, the MoEF&CC has violated the **precautionary principle**, a fundamental tenet of environmental law, the precautionary principle requires that in cases of scientific uncertainty or potential environmental harm, precautionary measures must be taken to prevent irreversible damage. The EC's approval in this case demonstrates a disregard for this principle, further warranting its revocation.

(xv) The Project Proponent (MAHAGENCO) initiated the tender process and invited financial bids for the proposed 2x660 MW Koradi thermal power project prior to obtaining the mandatory Environmental Clearance (EC) from the Ministry of Environment, Forest and Climate Change (MoEF&CC). This is a blatant violation of the provisions under the Environment Impact Assessment (EIA) Notification, 2006, which mandates that no activity related to the



construction or establishment of a project can commence before receiving an EC.

(xvi) The area around the project site hosts several operational coal mines, including *Singhori, Bhanegaon, Gondegaon, Ghat Rohna, Inder Mines,* and *Kamthee*. These mines contribute significantly to the already high levels of air and water pollution in the region. The cumulative environmental impact of the existing coal mines in proximity to the proposed project has not been adequately assessed in the Environmental Impact Assessment (EIA) report.

(xvii) The EAC failed to consider the cumulative impact of the mining activities in the area, particularly the combined effect on air quality, groundwater depletion, and public health. This omission violates the principle of cumulative impact assessment, which is an integral part of the EIA process and should have been thoroughly analyzed before granting the EC.

(xviii) The project area is experiencing significant depletion of groundwater resources and contamination due to both industrial activity and



over-extraction. According to the Geological Survey of India (GSI) report, the groundwater table in the region has been severely depleted, and the water quality is compromised, making it unsuitable for domestic or agricultural use.

(xix) The proposed project, with its massive water requirement of 95,040 KLD for industrial purposes, will exacerbate the water crisis in the area. The EAC's recommendation failed to address the current state of groundwater and its capacity to sustain additional industrial demand. This oversight goes against the principles of intergenerational equity and violates the right of the local population to safe and sufficient water.

(xx) That Nagpur city is listed as a Non-Attainment City under the National Clean Air Programme (NCAP) due to its consistently high levels of air pollution, particularly from particulate matter. The Central Pollution Control Board (CPCB) has identified Nagpur as a city where air quality consistently fails to meet the National Ambient Air Quality Standards (NAAQS).



(xxi) The project is misrepresented as an expansion.

Closing several units across Maharashtra but establishing new units at Koradi makes this a new project rather than a modernization or expansion, in violation of the procedures laid down for environmental approvals.

(xxii) The proposed project is located in close proximity to several educational institutions, including schools and colleges, which are situated merely 2-3 kilometers from the project site. This poses a significant risk to the health and well-being of students, faculty, and residents in these areas, particularly given the potential air and water pollution associated with thermal power plants. Moreover, there are also several residential projects in the vicinity, duly permitted by the authorities. The establishment of a large-scale thermal power project in such close proximity to densely populated residential and educational zones contradicts principles of environmental sustainability and public safety.



**LIST OF SCHOOLS NEAR KORADI THERMAL POWER
PLANT**

SR NO	NAME OF SCHOOL
1.	MODERN SCHOOL
2.	VIDYA MANDIR HIGH SCHOOL AND JUNIOR COLLEGE
3.	BHOSLE MILITARY SCHOOL
4.	TULI PUBLIC SCHOOL
5.	DELHI PUBLIC SCHOOL
6.	RAMDEOBABA COLLEGE OF ENGINEERING
7.	SEVANAND VIDHYALAYA MAHADULA
8.	SEWANAND MAHAVIDYALAYA
9.	BRIGHT SCHOLARS' KINDERGARTEN (SCHOOL)
10.	SHRI SACHINANAND SHIKSHAN SANTHAS COLLEGE OF PHARMACY
11.	BHAVAN'S VIDYA MANDIR KORADI
12.	VIDYA ACADEMY
13.	TEJASWINI JUNIOR COLLEGE; KORADI
14.	ZILLA PARISHAD PRIMARY SCHOOL
15.	SAMATA VIDYALAYA



16	WONDERLAND SCHOOL
17	VIDHYA MANDIR ENGLISH PRIMARY SCHOOL
18	Z. P. PRY. SCHOOL ; SHRIWASN
19	VIDYA MANDIR KORADI HIGH SCHOOL
20	PADMASHREE SMITA PATIL VIDHYALAY
21	BHAVAN'S B.P. VIDYA MANDIR
22	ANNASAHEB GANDEWAR COLLEGE OF ART AND SCIENCE
23	SINDHU MAHAVIDYALAYA

(xxiii) Additionally, the proximity of the project to these sensitive receptors increases the potential for adverse environmental impacts, including:

a. Air Quality Deterioration: *Thermal power plants are known to emit particulate matter (PM), sulfur dioxide (SO₂), nitrogen oxides (NO_x), and other harmful pollutants. The presence of schools, colleges, and residential communities within such a close radius could expose vulnerable groups, particularly children, to elevated levels of air pollution,*



thereby causing respiratory and other health issues.

b. Noise Pollution: *The continuous operation of a power plant, including machinery and vehicular traffic, will result in substantial noise pollution, disturbing the quiet environment needed for educational institutions and residential areas.*

c. Water Contamination and Depletion: *The thermal power plant is likely to draw significant amounts of water for cooling purposes, potentially leading to the depletion of groundwater resources. Given the close proximity of residential areas, this may exacerbate the existing challenges related to water scarcity and contamination, impacting the basic needs of local communities.*

(xxiv) Therefore, locating the project in such a vulnerable zone, without taking into account the presence of educational institutions and residential complexes, is in direct violation of the principles of environmental justice, the precautionary principle,



and the right to a clean and safe environment. The project's potential to cause irreparable harm to the health and safety of children, students, and local residents necessitates a thorough reconsideration of its environmental clearance.

(xxv) The Environmental Clearance (EC) granted to the project incorrectly asserts that there are no national parks, wildlife sanctuaries, or protected forests **within a 10 km radius, while the same EC acknowledges that the Gorewada International Zoo, housing endangered species, is located just 5.28 km from the project site.** This conflicting information not only demonstrates the inadequacy of the environmental impact assessment but also neglects the importance of nearby ecological resources, which are critical for biodiversity conservation.

(xxvi) The **Gorewada International Zoo**, which is a recognized conservation site for endangered species, lies in close proximity to the project area, the EC fails to consider the potential harm to these species and the overall wildlife in the region. The



failure to evaluate the project's impacts on such sensitive zones is a serious oversight that compromises both environmental integrity and public trust. The Gorewada Zoo is a place for Natural Breeding of number of endangered species like Tiger (*Panthera tigris*), Leopard (*Panthera pardus*), Sloth Bear (*Mulrsus urcinus*), Black Buck (*Antilope cervicapra*), Albino Black Buck (*Antilope cervicapra*), Brow Antlered Deer (*Rucervus eldii*), etc. along with various free living animals like Nilgai, Sambar, Leopard, Jungle Cat, Grey Mongoose, Common Palm Civet, Indian Peafowl, Grey Francolin, Painted Francolin, Little Brown Dove, Ring Dove, Black-winged Kite, White-eyed Buzzard, Honey Buzzard Eagle, Owl Barn Owl, Spotted Owlet + 200 Birds species, Indian Rat, Snake Russell's Viper, Saw-scaled Viper, Indian Cobra, Common Trinket, Wolf Snake, Indian Rock Python, Common Cat, Snake Stout, sand Snake, Bronze-backed Tree Snake, Indian Egg-Eater Monitor Lizard, Garden Lizard, etc. However, surprisingly the Environmental clearance mentions only "Schedule-I species observed in the



study area: Indian Monitor Lizard, Jungle Cat & Common Mongoose”. The zoo's efforts focus on the preservation of species that are at risk of extinction, both native to India and from other parts of the world. The State Government of Maharashtra has sanctioned an amount of Rs. 517/ crores for “African Safari” in Gorewada. **[THE HITAVADA DATED 15-10-2024]**

(xxvii) The area surrounding the project also includes numerous **water bodies** and forested regions, which serve as key habitats and ecological corridors. These areas should have been assessed as part of the environmental review, especially in light of the significant biodiversity they support. The EC's failure to address these crucial environmental aspects renders it procedurally and substantively flawed.

WATER BODIES NEAR KORADI

THERMAL PLANT

Sr No	Water Bodies
1.	Koradi Lake



2.	Maggie Waterfall
3.	Khindsi Lake
4.	Pench River
5.	Juna Talab
6.	Suradevi
7.	Gorewada Lake
8.	Kanhan River
9.	Kolar River
10.	Pioli River
11.	Futala Lake
12.	Shukrawari Lake

**(xxviii) THE HON'BLE SUPREME COURT IN
THE CASE OF MUNICIPAL CORPN. OF
GREATER MUMBAI VS ANKITA SINHA**

2022-[13]-SCC-401

The Hon'ble Supreme Court held that_____

PARA:- 37.5.

Section 20 says that while adjudicating issues, the Tribunal shall apply the environmental principles, namely, sustainable development principles,



precautionary principles and polluter pays principle. Under Section 25, the Tribunal can execute its order/decision as a decree of the civil court and for that purpose shall have all the powers of a civil court. Section 29 bars the jurisdiction of the civil court to entertain all environmental matters covered by the Tribunal. Under Section 33, the NGT Act has an overriding effect over other laws.

Para 71

“The origin of the precautionary principle itself is rooted as an institutional obligation, by holding them primarily responsible for the environmental concerns and remedies.”

Para 72

As earlier seen, Section 20 of the NGT Act which includes the term "decision", in addition to "order" and "award", also require the Tribunal to apply the "precautionary principle" and the statutory mandate being relevant is extracted:

“Section 20 of the NGT Act which includes the term ‘decision’, in addition to ‘order’ and ‘award’, also



require the Tribunal to apply the 'precautionary principle' along with the principles of sustainable development and the polluter pays principle."

Para 73

The principle set out above must apply in the widest amplitude to ensure that it is not only resorted to for adjudicatory purposes but also for other "decisions" or "orders" to governmental authorities or polluters, when they fail to "to anticipate, prevent and attack the causes of environmental degradation". Two aspects must therefore be emphasised i.e. that the Tribunal is itself required to carry out preventive and protective measures, as well as hold governmental and private authorities accountable for failing to uphold environmental interests. Thus, a narrow interpretation for NGT's powers should be eschewed to adopt one which allows for full flow of the forum's power within the environmental domain.

Para 74

It is not only a matter of rhetoric that the Tribunal is to remain ever vigilant, but an important legal onus is



cast upon it to act with promptitude to deal with environmental exigencies. The responsibility is not just to resolve legal ambiguities but to arrive at a reasoned and fair result for environmental problems which are adversarial as well as non-adversarial.

It would be apposite here to refer to Justice Benjamin Cardozo, of the United States Supreme Court, who in his seminal treatise, *The Nature of the Judicial Process*, stated thus:

"It is true that codes and statutes do not render the Judge superfluous, nor his work perfunctory and mechanical. There are gaps to be filled. There are doubts and ambiguities to be cleared. There are hardships and wrongs to be mitigated if not avoided." The above could be a pointer towards the pre-emptive functions of NGT as a sui generis body.

Para 92.

The environmental impacts on climate change are gaining increasing visibility in the shape of uncertain rains, species extinction, loss of natural habitat and so on. These also have the propensity to diminish



fresh water resources, reduce agricultural yields and impact public health, particularly in the cities. The flooding and erosion in riverine and coastal areas are matters of serious concern. Governmental assessment of India's increased vulnerability to such changes in the near future also exists⁵¹ with many countries declaring climate emergencies and many others being urged to follow suit.

Para 93.

Therefore, the nature of ecological imbalance which is visible even in our own times may cascade, and the unforeseen injustice of the future may not be capable of being handled within the frontiers set forth today. The long term and very often irreparable environmental damage which are expected to be arrested by NGT, urge this Court to advert to what is termed as the "Seventh Generation" sustainability principle, or the "Great Law of the Iroquois" (as it originates from the Iroquois Tribe) which requires all decision-making to withstand for the benefit of seven generations down the line.



Para 94.

It is vital for the well-being of the nation and its people, to have a flexible mechanism to address all issues pertaining to environmental damage and resultant climate change so that we can leave behind a better environmental legacy, for our children, and the generations thereafter.

Para 95.

In circumstances where adverse environmental impact may be egregious, but the community affected is unable to effectively get the machinery into action, a forum created specifically to address such concerns should surely be expected to move with expediency, and of its own accord. The potentiality of disproportionate harm imposes a higher obligation on authorities to preserve rights which may be waylaid due to such restrictive access. It is also noteworthy that the "global impacts of climate change will fall disproportionately on minority and low-income communities". Thus, an affirmative role, beyond mere adjudication at the instance of applicant, is certainly required for serving the ends of environmental justice, as the statute itself requires of NGT. We cannot validate an



argument which furthers uncertainty to justify the role of a spectator, if not inaction, and would most assuredly result in injustice.

(19) CASE LAWS:- The applicant also relies on following case laws

- 1) UTKARSH MANDAL V. UNION OF INDIA (SCC ONLINE DEL 3836), WRIT PETITION (CIVIL NO. 930/2009& CM APPL NO.S 7127/09,12496/2009 DECIDED ON NOVEMBER 26,2009.
- 2) CENTRE FOR SOCIAL JUSTICE VERSUS UNION OF INDIA AND OTHERS (2000 SCC ONLINE GUJ 55) SPL.CIVIL APPLN. NO. 8529 OF 1999, DECIDED ON MARCH 2,2000,
- 3) IN THE MATTER OF KANHAI RAM PATEL VERSUS UNION OF INDIA, THE NATIONAL GREEN TRIBUNAL CENTRAL ZONE BENCH AT BHOPAL (MADHYA PRADESH) {APPEAL NO.26/2022(CZ)} ON JANUARY 15, 2024



- 4) MUNICIPAL CORPORATION OF GREATER
MUMBAI VS ANKITA SINHA -2022-[13]-SCC-
401
- 5) SHANTANU SHARMA VS UNION OF INDIA-
NGT-DELHI -OA NO: -117/2014 ORDER
DATED 27-01-2020

PLACE: - NAGPUR

DATE: - 26.11.2025



ADVOCATE FOR THE APPLICANT

ADV. GAYATRI SHARMA

OFFICE ADDRESS:-KRISHNA NAGAR,
SEMINARY HILLS, GITTIKHADAN,

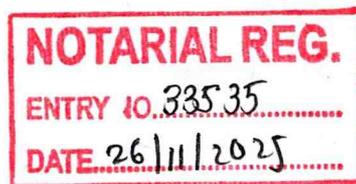
NAGPUR PHONE NO:- 9665037401, E-mail:
gayatrisharma.advocate@gmail.com



SOLEMN AFFIRMATION

I, DR. AMJAD KHAN Aged about 48 years Occ. Management Professional R/o Nagpur , having the status of petitioner no do hereby take oath and state on solemn affirmation that:

- (i) I am duly conversant with the facts of the case and competent to file the present Petition.
- (ii) That the contents in this Rejoinder are drafted by my counsel on my instruction are true to the best of my personal knowledge and belief.
- (iii) The contents from 1 to 19 of this Rejoinder are drafted by my counsel on the basis of documents supplied by me and were explained to me in vernaculars which I have understood. Hence verified and signed on **26th November 2025** at Nagpur.

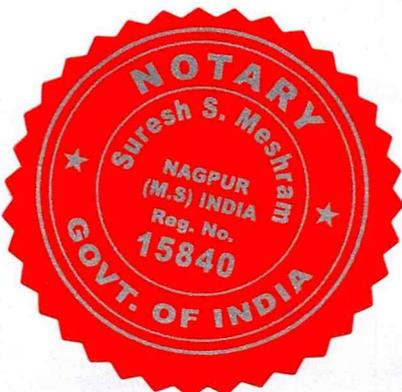


DEPONENT
Amjad Khan
 { Dr. Amjad Khan }

I know and identify the Deponent

Gayatri Sharma
 Adv. Gayatri Sharma

Sworn before me on this 26th day of NOV 2025 at Nagpur by Shri/Smt./Ku. Amjad Khan R/o Nagpur who has been identified by Shri/Smt. Gayatri Sharma Advocate Nagpur



Suresh S. Meshram
Suresh S. Meshram
 NOTARY
 GOVT. OF INDIA
 Nagpur (M.S) INDIA


MAHARASHTRA STATE POWER GENERATION CO. LTD.

Office of the Chief Engineer (P&P), 'Prakashgad', 3rd floor, Bandra (East),
MUMBAI-400051 Ph:(0)26474211/26472131(P)26475759, Fax No. 022-26475329,
E-Mail: cgm-gpp@mahagenco.in

Ref. No. CE (P&P)/3x660MW/ Koradi /FGD/

Date:

1236

16 NOV 2023

**LETTER OF AWARD
(EPC Contract)
(By Speed Post/Email)**

To

M/s. Shapoorji Pallonji And Company Private Limited
SP Centre, 41/44, Minoos Desai Marg,
Colaba, Mumbai 400005, India.

Email: reby.thomas@shapoorji.com, mayank.rudra@shapoorji.com
birendra.singh@shapoorji.com

(M/s. Shapoorji Pallonji & Co. Pvt. Ltd. in Collaboration and Technology Transfer Agreement with M/s. Rudis d.o.o. Trbovlje, Slovenia, Europe.)

Kind Attn: Mayank Rudra

Subject: Award of Contract for Design, Engineering, Manufacture, Assembly, Testing at Works, Supply at Site; Civil, Structural & Architectural Works and Erection, Testing & Commissioning of FGD System for 3x660MW Unit 8,9 &10 at Koradi TPS on EPC basis including O&M of the installed FGD system for the span of 3 years as prescribed in E-Tender No. 3000035577.

Reference: 1. SRM Tender No. 3000035577 published on 10.03.2023 and subsequent amendment-1 dated & Prebid queries reply dated 19.04.2023 and amendment-2 dated 28.04.2023.
2. M/s. SPCPL Bid proposal No. SPCPL/FGD/KORADI/01/of 2023-24 dated 10.04.2023 for RFX response No. 3400104623.
3. Cover- I (Techno-commercial Bid) opened on 24.05.2023.
4. Cover- II (Price Bid) opened on 21.06.2023.
5. M/s. SPCPL bid proposal no. SPCPL/FGD/KORADI/01 of 2023-24 vide email dated 06.07.2023.

Dear Sir,

With reference to your Bid proposal dated 10.04.2023 under ref (2) & E-Reverse Auction through M/s. MSTC platform on 05.07.2023 and subsequent correspondence, Maharashtra State Power Generation Company Ltd. (MSPGCL) (herein after referred to as 'Owner') is pleased to inform that, your offer against Tender No. 3000035577 is accepted and Letter of Award is hereby placed on M/s. Shapoorji Pallonji And Company Private Ltd, Mumbai 400005, India (herein after referred to as 'Contractor') in Collaboration and Technology Transfer Agreement with Qualified FGD Manufacturer (QFGDM) M/s. Rudis d.o.o. Trbovlje, Slovenia, Europe for Design, Engineering,

Manufacture, Assembly, Testing at Works, Supply at Site; Civil, Structural & Architectural Works and Erection, Testing & Commissioning of FGD System for 3x660MW Koradi TPS on EPC basis including O&M of the FGD system for the span of 3 years as prescribed in E-Tender No. 3000035577 read with subsequent corrigendum, addendum, correspondence, amendments, clarifications, resolutions etc, on the following terms and conditions :

1.0 AWARD OF CONTRACT :

The award covers the activities and services for Design, Engineering, Manufacture, Assembly, Testing at Works, Supply at Site; Civil, Structural & Architectural Works and Erection, Testing & Commissioning of FGD System and Auxiliaries for 3x660MW Unit no.8,9 &10 at Koradi TPS on EPC basis including O&M of the FGD system for the span of 3 years along with supply of spares and consumable for O&M as prescribed in E-Tender No. 3000035577 read with subsequent corrigendum, addendum, correspondence, amendments, clarifications, resolutions etc. as a fully integrated package as prescribed in the bid specification.

2.0 SCOPE OF CONTRACT:

- 2.1 It is not the intent to list out complete scope of work hereunder. However, the broad scope of the work shall include Design, engineering, manufacture, procurement, inspection and testing at manufacturer's works, supply, packing and delivery at project site, unloading & storage at site, in-plant transportation and handling at site, fabrication, erection, dismantling of existing facilities/structures, interconnection with existing units, pre-commissioning, testing, successful commissioning, trial operation, performance testing and handing over of complete Wet Limestone based FGD system together with including electrical and C&I systems for coal fired thermal units 8,9 & 10 of 3x660MW Koradi TPS , of MSPGCL along with all auxiliaries & accessories, special tools & tackles and associated civil works as specified, including Operation & Maintenance (O&M) for 3 years of the installed FGD System as prescribed in Tender No. 3000035577 dated 10.03.2023 read with subsequent corrigendum, addendum, correspondence, amendments, clarifications, resolutions etc. as a fully integrated package.
- 2.2 The bid specification and the subsequent correspondence referred above shall form the integral part of this contract. The equipment/system/item /services required for successful completion and operation of plant, if not explicitly stated but required and explicitly not excluded from the scope of work, shall deemed to have been included in the contractor's scope and shall be supplied/provided by the contractor within the contract price.
- 2.3 The contractor, within the contract price for supply, apart from the equipment/materials stipulated therein, shall supply all consumables like, grease, lubricating oils, chemicals, paints, ink & graphs for recorders etc. up to

takeover of the unit by owner as stipulated in CI No. 41.0, Section 2, Volume-I of bid specification. The Contractor shall also arrange any additional quantities required specifically for the Performance Guarantee Test. The commissioning spares required during erection, testing and commissioning shall be arranged by the contractor.

3.0 EPC - CONTRACT PRICE:

3.1 The total price for Design, Engineering, Manufacture, Assembly, Testing at Works, Supply at Site; Civil, Structural & Architectural Works and Erection, Testing & Commissioning of FGD System for 3x660MW Koradi TPS on EPC basis as mentioned above shall be ₹ 1345.90 Cr including GST (Rs. One Thousand Three Hundred Forty Five Crore and Ninety Lakh Only) on firm price basis as detailed below:

Sr.	Particulars	Price in INR	Applicable Taxes	
			Tax	Rate
Supply of Equipment, and Materials				
1	1.1 Supply of Indigenous Equipment & Materials	4,09,25,94,950.50	GST	18%
	1.2 Supply of Imported Equipment, and Materials to be directly delivered to the site on CFR basis	2,04,62,97,475.25	Total custom duty	8.5%
			GST	18%
	1.3 Supply of Steel, Cement and other aggregates for Civil, Structural and Architectural Works	1,59,15,64,702.97	GST	18%
	1.4 Inland Freight for FOR Site Delivery of 1.1 to 1.3 above	28,42,07,982.67	GST	18%
1.5 Amount of Taxes & Duties on 1.1 to 1.4 for the purpose of ceiling	1,62,11,69,105.68			
Total		9,63,58,34,217.08		
Erection, Testing & Commissioning				
2	2.1 Equipment Related Design & Engineering (except for Civil Design & Engineering)	28,42,07,982.67	GST	18%
	2.2 Erection, Testing & Commissioning	56,84,15,965.35	GST	18%
	2.3 Amount of Taxes & Duties on 2.1 & 2.2 above, for the purpose of ceiling	15,34,72,310.64		
Total		1,00,60,96,258.66		
Civil Construction, Structural and Architectural Works				
3	3.1 Civil Works related Design Engineering	22,73,66,386.14	GST	18%
	3.2 Civil Construction, Structural and Architectural Works	2,15,99,80,668.32	GST	18%
	3.3 Amount of Taxes & Duties on 3.1 & 3.2 above for the purpose of ceiling	42,97,22,469.80		
Total		2,81,70,69,524.26		
Grand Total (1+2+3)		13,45,90,00,000.00		
Rs. One Thousand Three Hundred Forty Five Crore and Ninety Lakhs Only.				

4.0 LOCAL CONTENT:

The minimum local content percentage shall be more than 60% as prescribed by the Nodal Ministry.

5.0 TAXES AND DUTIES:

- 5.1 The GST shall be paid to the contractor for the supply of materials/ services rendered against this contract as per applicable rate, however total amount of GST shall be paid up to the ceiling limit.
- 5.2 Custom duty: The contractor shall be payable at actual on the basis of documentary evidence. Total amount of custom duty shall be paid up to the ceiling limit.
- 5.3 Taxes & Duties shall be payable as stipulated under the Clause No 8.0, Section - 2A and Clause No. 23, Section-2B, Volume -I of Bid specification.
- 5.4 Statutory variation during the currency of the Contract shall be payable as stipulated under the Clause No. 9, Section - 2A and Clause No. 24 Section-2B, Volume - I of Bid specification.

6.0 SIGNING OF THE CONTRACTS: Following two contracts shall be entered into by MSPGCL with Contractor:

- 6.1 **First Contract** : For Design, Engineering, Manufacture, Assembly, Testing at Works, Supply at Site; Civil, Structural & Architectural Works, Insurance and Erection, Testing & Commissioning of FGD System and Auxiliaries on Engineering Procurement & Construction (EPC) basis.
- 6.2 **Second Contract:** O&M Contract for providing the services of Operation & Maintenance of FGD plant for the period of 3 years including the supply of all the spares, consumables for the continuous Operation & Maintenance of the Plant.
- 6.3 Initially, first contract shall be signed; however the second contract for O&M of the FGD plant shall be signed after acceptance of PG tests of last unit. The Contracts shall be signed in Mumbai at the office of Chief Engineer (P&P)

7.0 CONTRACT PERFORMANCE SECURITY:

- 7.1 The Contractor, within 30 Days from the date of issuance of the LOA, shall submit the bank guarantees as under:
 - i) The Contract performance Bank Guarantees amounting to 10% of the EPC Contract Price strictly in the format as per Schedule-8 (A), Section-I, Volume-I of bid specification, issued by any Nationalized/ scheduled commercial bank as notified by the Reserve Bank of India, payable at Mumbai.
 - ii) The Contract performance security amounting to 10% of the O&M Contract Price strictly in the format as per Schedule-8 (A), Section-I, Volume-I of bid specification, issued by any Nationalized/scheduled commercial bank as notified by the Reserve Bank of India, payable at Mumbai.
 - iii) On Demand Bank Guarantee amounting to 1.5% of the EPC Contract Price issued on behalf of every executants of Deed of joint undertaking (DJU) i.e.

by QFGDM M/s. Rudis d.o.o. Trbovlje, Slovenia, Europe, in the format as per Schedule-8(B), Section-I, Volume-I of bid specification, issued by any Nationalised/ scheduled commercial bank as notified by the Reserve Bank of India, payable at Mumbai.

- 7.2 All above Contract Performance Securities except for Contract Performance Security of 10% of O&M Contract Price shall be kept valid for the period of 90 Days beyond the expiry of the Defect Liability Period.
- 7.3 The Contract performance security of 10% of O&M Contract Price shall be kept valid till the end of Contract for Operation & Maintenance of 3 years after acceptance of PG test by MSPGCL.
- 7.4 In case the Contractor fails to submit the Bank Guarantees as above within the stipulated period or the extension granted by the Owner, if any, for this purpose, the Bid Security submitted by the contractor shall be liable to be forfeited and the Contract awarded shall be liable to be cancelled/terminated at the risk and cost of the Contractor.
- 7.5 For the purpose of above bank guarantee, the Contract Price shall be including taxes & duties.
- 7.6 All above bank guarantees are to be submitted to Chief Engineer (P&P), MSPGCL, HO, Mumbai.
- 8.0 DEFECT LIABILITY (GUARANTEE) PERIOD:**
Defect Liability Period (Guarantee period) shall be as per clause no. 43, Section-2, Volume-I of Bid Specification.
- 9.0 ZERO DATE OF CONTRACT:**
The zero date of contract shall be the date of issuance of the Letter of Award.
- 10.0 WORK COMPLETION SCHEDULE:**
The duration for Completion of the project as stated in Schedule-6 of contract commencing from Zero date. The detail of Work Completion Schedule is as under:

Sr. No	Milestone	Duration in Months		
		Unit-8	Unit-9	Unit-10
1.	Design, Engineering, Manufacture/Procurement, Assembly, Testing at manufacturer's works, packaging into properly sized units and shipping, transport, delivery to site, receipt, unloading, handling and storage at site, Civil, Structural & Architectural Works, Erection, Testing and Commissioning and putting into operation of the FGD Systems and auxiliaries after completion of trial operation.	26	28	30

Sr. No	Milestone	Duration in Months		
		Unit-8	Unit-9	Unit-10
2	Completion of Performance Guarantee Test and handing over the unit to the owner	29	31	33

Note:

- 1) The work of common utilities/ auxiliaries shall be completed along with the work of first Unit (i.e. Unit-8), before start of Trial Operation.
- 2) PG Test of final unit shall be carried out with all the earlier units and common auxiliaries in running condition.

11.0 PROJECT MANAGER:

The project Manager for implementation of FGD installation project at 3x660MW Koradi TPS Unit nos. 8,9 &10 shall be Chief Engineer (Project), Koradi.

12.0 TERMS OF PAYMENT FOR SUPPLY:

As Stipulated under Clause No. 12.0, Sec-2A, Volume-I of bid specification.

12.1 Application for the Payments:

- 12.1.1 For all payments, the application and the invoices along with the documents listed in the relevant clauses of terms of payment shall be submitted by the Contractor to the Project Manager. However, for the Advance Payment, the application and the invoices along with the documents listed in the relevant clauses of terms of payment shall be submitted by the Contractor to the Chief Engineer (P&P) and the advance payment shall be released from Head Office, Prakashgad, Mumbai.
- 12.1.2 The supply invoice (except in case of advance payment), shall invariably contain the Purchase Order (approved BBU) number, Item code as per the Purchase Order and delivery challan no. of the contractor vide which the material was delivered.
- 12.1.3 Each such application shall state the amount claimed and shall set forth in detail, in the order of the Purchase Order, particulars of the materials/the equipment delivered pursuant to the contract. No sum shall be included in any payment application in respect of the goods that, according to the decision of the Engineer, does not comply with the contract.
- 12.1.4 The payments shall be released by the Project Manager/HO, Mumbai or the financing institute(s) with whom the owner has tied up the funding for this project through Crossed Cheque/NEFT/RTGS.
- 12.1.5 The owner, as per guidelines and conditions specified herein, shall arrange the payment to the contractor only for the supplies made under the contract. All payments during the currency of the contract shall be "on account" payments only. The payments shall be made in Indian Rupees as per the contract.

12.2 Advance Payment:

12.2.1 Seven percent (7%) Ex-Works price for supply of equipment/materials along with applicable taxes shall be paid as the first instalment of the advance within thirty (30) days from the date of submission of the documents as under:

- i) Invoice in triplicate (one original + two copies).
- ii) A Copy of Letter of Award issued by the owner duly acknowledged by the contractor.
- iii) A copy of the acceptance of the contract performance security issued by the owner/ Project Manager.
- iv) A copy of the acceptance of the bank guarantee of equivalent amount submitted by the contractor against advance payment.
- v) A copy of All Risk Marine-cum-Erection Insurance.

12.2.2 Further one & half percent (1.5%) Ex-Works/ CIF price for supply of equipment/ materials shall be paid as second instalment of advance within thirty (30) days from the date of submission of the documents as under whichever is later:

- i) Invoice in triplicate (one original + two copies).
- ii) Copy of the Micro Detail Project Schedule Network duly approved by the Chief Engineer (P&P)
- iii) A copy of the acceptance of the Bank Guarantee of equivalent amount submitted by the contractor against advance payment.

12.2.3 Further one & half percent (1.5%) Ex-Works/CIF price for supply of equipment/ materials shall be paid as third instalment of advance within thirty days from the date of submission of the documents as under whichever is later:

- i) Invoice in triplicate (one original + two copies).
- ii) Copy of the letter of the owner forwarding signed contract agreement to the contractor.
- iii) A copy of the acceptance of the bank guarantee of equivalent amount submitted by the contractor against advance payment.

12.2.4 In the event of order for more than one unit, the unit wise advance shall be in proportion with the contract price allocated to the respective unit.

12.2.5 The advance paid as above shall be interest free upto the scheduled date of taking over as per the approved project schedule. The advance shall be adjusted against the supplies made by the contractor on prorata basis and shall be determined by the value of goods delivered by the contractor against the contract irrespective of the fact whether payment against such supplies are made by the owner or otherwise. However, the contractor may seek

accelerated /one-time adjustment of the advance before scheduled date of taking over of the unit as per approved project schedule.

12.2.6 For the unrecovered advance, if any, beyond the scheduled date of taking over of the unit as per the approved schedule, interest at the rate of i) one percent higher than the rate of borrowing by the owner for this project or ii) the prevailing Retail Prime Lending Rate (RPLR) of State Bank of India whichever is higher shall be levied.

12.2.7 The Contractor may, if he so desires, reduce the value of Bank Guarantee(s) submitted against advance payments after every six (6) months to the extent of advance actually adjusted. The application for reduction in the value of the Bank Guarantee shall be submitted to the Project Manager.

12.3 Payment Against Supply of Materials/Equipment:

12.3.1 75% of the of Ex-works supply price as per the approved billing break-up minus advance adjustment on pro-rata basis (e.g. 65% if the advance paid till then is 10%) along with 100% taxes & duties stipulated under clause 8, Section-2A, Volume-I of Bid specification as may be applicable shall be paid on pro-rata basis within 30 days from the date of submission of invoice and the related documents as mentioned below:

- (i) Invoice (detailing taxes & duties) : 1 original + 2 copies
- (ii) Packing slip for each consignment : 3 copies
included in invoice.
- (iii) Pre-despatch clearance certificate by the : 1 original + 2 copies
Owner wherever applicable or Supplier's
certificate confirming that IIA/
Mahagenco inspection is not applicable.
- (iv) Copy of Stores Receipt Note (SRN) issued : 1 original + 2 copies
by Owner's site authority.

12.3.2 The entire amount of applicable taxes and duties payable/reimbursable as per Clause No. 8.0, Section 2A, Volume-I of Bid Specification shall be paid/reimbursed along with the payment of respective invoice.

12.3.3 25% payment of invoice values shall be retained and out of which 15% payment of invoice values shall be released on achievement of important milestones in the project completion ,as stipulated below.

12.3.4 Milestone Payments :

15% payment of invoice value out of retained 25% of invoice value shall be released within 30 days from the date of achievement of milestones of each FGD unit separately as under and submission of the application of release of respective payment:

Sr.	Milestone Activity	% of Payment
i	Supply & Erection of Booster Fans	2

Sr.	Milestone Activity	% of Payment
ii	Supply & Erection of Ball Mill	2
iii	Supply & Erection of Absorber with limestone slurry pumps & Spray system.	3
iv	Supply & Erection of Limestone & Gypsum Handling System	2
v	Commissioning of all above System	2
vi	Trial run of the FGD system	2
vii	Signing of O&M Contract	2

For claiming above payments, the contractor, along with his application for release of the payment, shall submit the certificate issued by the project manager to the effect that the said milestone is achieved and supplies to achieve said milestone are completed by the contractor.

12.4 Final Payment against Supply of Equipment/material:

12.4.1 The balance 10% payment against supply of the equipment/material, shall be released after completion of successful PG Test against submission of application for release of payment along with

- i) Certificate issued by the owner/engineer declaring completion of successful Performance Guarantee Test.
- ii) Certificate issued by the Project Manager declaring the completion of all the supplies to be made against the contract.

12.5 Payment of Inland Freight Charges:

100% Inland Freight charges along with applicable taxes and duties thereon shall be paid to the contractor on receipt of the respective material at site against submission of invoice and Copy of Stores Receipt Note (SRN) issued by the site officials.

12.6 Payments against Statutory Variation:

100% Payments towards Statutory Variation as per clause no. 9.0, Section 2A, Volume-I of Bid Specification shall be made to the contractor along with payment of respective invoice and documentary evidence of applicability of such statutory variations.

12.7 Statutory Deductions (Deduction of Tax at Source):

12.7.1 Statutory deduction towards Income Tax under the Income Tax Act and any other taxes & duties as may be applicable under any other act(s), shall be made by the owner from the contractor's respective invoices, as per the prevailing statutory requirements and necessary TDS certificate shall be issued in favour of the contractor.

12.7.2 However, if the contractor submits the certificate(s) from the respective statutory authorities exempting the contractor from deduction of such tax(es)

or allowing deduction at lower rate or allowing deduction of certain amount, as the case may be, the action as per the stipulations of the certificate shall be taken while releasing the payments to the Contractor.

- 12.7.3 As per the provisions of Building & Other Construction Workers Act-1996, BOCW cess@1% of contract price shall be deducted from the invoices of the Contractor and deposited to the concerned authorities. Any increase or decrease in the rate from the next day of the Record Date shall accrue to the Owner.

13.0 TERMS OF PAYMENT FOR SERVICES

As Stipulated under Clause 27.0, Section-2B, Volume-I of bid specification.

13.1 Application for the Payments:

- 13.1.1 For all payments, the application and the invoices along with the documents listed in the relevant clauses of terms of payment shall be submitted by the Contractor to the Project Manager. However, for the Advance Payment, the application and the invoices along with the documents listed in the relevant clauses of terms of payment shall be submitted by the Contractor to the Chief Engineer (P&P) & the advance payment shall be released from Head Office, Prakashgad, Mumbai.
- 13.1.2 The invoice (except in case of advance payment), shall invariably contain the Work Order (approved BBU) number, Item code as per the Work Order, the date completion of the particular service and any other details called for.
- 13.1.3 Each such application shall state the amount claimed and shall set forth in detail, in the order of the Work Order, particulars of the services rendered pursuant to the contract. No sum shall be included in any payment application in respect of the service that, according to the decision of the Engineer, does not comply with the contract.
- 13.1.4 The payments shall be released by the Project Manager/HO or the financing institute (s) with whom the owner has tied up the funding for this project.
- 13.1.5 The owner, as per guidelines and conditions specified herein, shall arrange the payment to the contractor only for the services rendered under the contract. All payments during the currency of the contract shall be "on account" payments only. The payments shall be made in Indian Rupees as per the contract.

13.2 Advance Payment:

- 13.2.1 10% of contract price and taxes payable on the advance payment, if any, shall be paid within 30 days upon mobilisation of contractor's establishment at site

for undertaking services against this contract and submission of the documents as under:

- i) Invoice in triplicate detailing taxes & duties (one original + two copies).
- ii) A Copy of Letter of Award issued by the owner duly acknowledged by the contractor.
- iii) A copy of the acceptance of the contract performance security issued by the owner/ the Project Manager.
- iv) A copy of the acceptance of the bank guarantee of equivalent amount submitted by the contractor against advance payment.
- v) A copy of "site mobilisation of contractor's establishment" certificate issued by the Project Manager.
- vi) A copy of All Risk Marine-cum-Erection Insurance.

13.2.2 In the event of order for more than one unit, the unit wise advance shall be in proportion with the Contract Price allocated to the respective unit.

13.2.3 The advance paid as above shall be interest free up to the scheduled date of Taking over of the unit as per the approved project schedule. The advance shall be adjusted against the Services rendered by the contractor on prorata basis and shall be determined by the value of Services rendered by the contractor in against the contract irrespective of the fact whether payment against such Services rendered are made by the owner or otherwise. However, the contractor may seek accelerated/onetime adjustment of the advance on or before the scheduled date of Taking over of the unit as per the approved project schedule.

13.2.4 For the un-recovered advance, if any, beyond the scheduled date of completion of trial operation of the unit as per the approved project schedule, interest at the rate of of i) one percent (1%) higher than the rate of borrowing by the owner for this project or ii) the prevailing Retail Prime Lending Rate (RPLR) of State Bank of India whichever is higher shall be levied.

13.2.5 The Contractor may, if he so desires, reduce the value of Bank Guarantee(s) submitted against advance payments after every six (6) months to the extent of advance actually adjusted. The application for reduction in the value of the Bank Guarantee shall be submitted to the Project Manager.

13.3 Payments towards Services Rendered:

13.3.1 75% of the Basic Contract Price as per the approved billing breakup minus advance adjustment on prorata basis (e.g.65%+10% advance) together with GST as stipulated under Clause No. 23, Section-2B, Volume-I of Bid specification above shall be paid on prorata basis within 30 days from the date of submission of the invoice and related documents as mentioned below:

- (i) Invoice : 1 original + 2 copies
- (ii) Certificate, certifying the completion of work : 3 copies
claimed in invoice issued by the Engineer.

13.3.2 25% payment of invoice value shall be retained and out of which 15% payment of invoice value shall be released on achievement of important milestones in the project completion as stipulated below.

13.4 Milestone Payments:

15% payment of invoice value out of retained 25% of invoice value shall be released within 30 days from the date of achievement of milestones of each FGD unit separately as under and submission of the application of release of respective payment:

Sr. No.	Milestone Activity	% of Payment
i	Supply & Erection of Booster Fans	2
ii	Supply & Erection of Ball Mill	2
iii	Supply & Erection of Absorber with limestone slurry pumps & Spray system.	3
iv	Supply & Erection of Limestone & Gypsum Handling System	2
v	Commissioning of all above System	2
vi	Trial run of the FGD system	2
vii	Signing of O&M Contract	2

13.5 Balance 10% payment of invoice value shall be released upon completion of successful PG Test of system and within 30 days from the date of submission of application for release of payment along with

- i) Certificate issued by the owner/engineer declaring completion of successful Performance Guarantee Test and
- ii) Certificate issued by the Project Manager declaring the completion of all the services to be rendered against the contract.

13.6 Payments against Statutory Variation:

100% Payments towards Statutory Variation as per Clause No.24.0, Section-2B, Volume-I of Bid Specification shall be made to the contractor along with payment of respective invoice and documentary evidence of applicability of such statutory variation.

13.7 Statutory Deductions (Tax Deduction at Source):

13.7.1 Statutory deduction towards any taxes & duties as may be applicable, shall be made by the owner from the contractor's respective invoices, as per the prevailing statutory requirements and necessary TDS certificate shall be issued by the owner.

13.7.2 However, if the contractor submits the certificate(s) from the statutory authorities exempting the contractor from deduction of such tax(es) or

allowing deduction at lower rate or allowing deduction of certain amount, as the case may be, the action as per the stipulations of the certificate shall be taken while releasing the payments to the Contractor.

- 13.7.3 As per provisions of Building & Other Construction Workers Act-1996 (BOCW) cess @1% of the Contract Price shall be deducted from the invoices of the Contractor and deposited to the concerned authorities. Any increase or decrease in the rate from the next day to the Record Date shall accrue to the Owner.

14.0 O&M FOR 3 YEARS CONTRACT:

As stipulated in Section-4 A, B & C, Volume-I of bid specification.

14.1 Scope of the Contract

The scope of work shall completely cover the Operation & Maintenance of FGD plant for a period of 3 years. Supply of all types of maintenance spares, consumables (excluding Limestone) and critical spares required for entire period of 3 years is in the scope of the contractor. Contractor has to maintain all the spares required for planned maintenance, major breakdown and annual overhaul based on his experience.

14.2 O&M Contract Price

As per tender terms & conditions, O&M cost for 1st year shall be 2% of the EPC contract value (excluding applicable taxes) and for subsequent years 3% escalation shall be given on the previous year's O&M cost. The per year value for O&M of FGD for Units 8, 9 & 10 shall be as under:

Sr.	Year	Annual Price for O&M in Rs. Cr
	Tender Price excluding applicable taxes & duties	1125.46
1	First Year	22.51
2	Second Year	23.18
3	Third Year	23.88
Total Contract Price for 3 years (excl. taxes)		69.57
Total Contract Price for 3 years (incl. taxes)		82.10

The total O&M contract price for 3 years shall be ₹ 69.57 Crore excluding GST (Rs. Sixty Nine Crore and Fifty Seven Lakh only) and ₹ 82.10 Crore including GST (Rs. Eighty Two Crore and Ten Lakh only).

14.3 O&M Contract Period:

- 14.3.1 The contract period shall be 3 years from the date of completion of PG Test of the FGD, provided the PG tests of all the units are accepted by the owner.

In case, the PG test is not acceptable to Mahagenco, the contractor shall perform the PG test after necessary corrections/modifications in the system.

14.3.2 Contractor shall commence the O&M work of the individual unit from the next day on which PG test of the unit is accepted by owner. However commencement date for O&M contract shall be the date on which PG test of last unit is accepted. As such contract period of 3 years shall commence from this date

14.3.3 Under such circumstances compensation for O&M work of completed units till acceptance of PG tests of last unit shall be granted and will be calculated as per rates mentioned in Clause No. 2.0, Section-4C, Volume-I of bid specification. For this purpose applicable rates shall be the monthly rates applicable for the first year of O&M Contract and no escalation shall be given.

14.4 Payment Terms:

Payment towards price for O&M of the plant shall be released on Pro-rata basis during O&M of the plant for each month. The payment towards O&M shall be released by Chief Engineer (O&M), Koradi TPS on Monthly basis along with 100% applicable taxes & duties as per provisions of Clause No. 26.0, Section-4B, Volume-I of bid specification.

14.5 Taxes and Duties:

The taxes & duties shall be paid to the contractor for the O&M services rendered against this contract as applicable, as stipulated under the Clause No. 23, Section-4B, Volume-I of bid specification.

15.0 INSURANCE:

15.1 Insurance for EPC Contract shall be maintained as per Clause No. 28, Section-2 and Clause- 6.0, Section-2B, Volume-I of Bid Specification.

15.2 The terms of Insurance during O&M Contract shall be as per Clause No. 6, Section-4B, Volume-I of Bid Specification.

16.0 LIQUIDATED DAMAGES -

16.1 Liquidated Damages EPC Part :

Liquidated damages shall be as stipulated under Clause No.30, Section-2, Volume-I of bid specification.

16.1.1 Liquidated Damages for Delay in Completion of Works:

If the contractor fails to complete the works covered under the contract for the FGD System as per provisions of the terms and conditions of the contract within the guaranteed work completion period as per Schedule - 6 of the contract, the contractor shall pay liquidated damages to the owner (along with the applicable GST on LD) at the rate stipulated under Clause No. 6.1, Section - 3, Volume - I of the contract. For this purpose, the date of completion of work shall be the date on which Trial Operation of each Unit (As per Schedule-6 Table Sr. No. 1) is completed.

16.1.2 Liquidated Damages for failure to meet Performance Guarantees:

If after the completion of the performance guarantee test in accordance with the Clause No.39, Section-2, Volume-I of bid specification, it is proven that the performance guarantees are deviating from their value guaranteed by the contractor as stipulated under the Clause No. 6.2, Section - 3, Volume - I of the contract, the contractor shall pay the owner the Liquidated Damages as stipulated thereunder.

- 16.1.3 The aggregate liability of the contractor towards payment of Liquidated Damages stipulated under clause Nos. 30.1 and 30.2, Section-2, Volume-I of bid specification shall not exceed 10% and 7.5 % of the contract price respectively. For the purpose of the clause No.30.0, Section-2, Volume-I of bid specification the contract price shall mean the total contract price as per Price Schedule (Schedule-1) of this contract along with amount of taxes & duties. The overall cap for liquidated damages against Cl. No. 30.1 & 30.2, Section-2, Volume-I of bid specification shall be limited to 15% of contract price indicated at Price Schedule along with amount of taxes & duties.

16.2 Liquidated Damages - O&M Part :

Liquidated damages shall be as Stipulated under Clause-30, Section-4A, Volume-I and Clause-4.0, Section-4C, Volume-I of bid specification.

- 16.2.1 The Liquidated Damages shall be levied on Availability of FGD Unit, if not achieved at the end of every month as Guaranteed by the bidder in Schedule-7. The LD shall be levied in accordance with Clause No. 4.0, Section 4C, Volume-I of bid specification.
- 16.2.2 Monthly Contract Value shall be considered for calculating the Liquidated Damages for failure to meet availability. The availability shall be calculated as specified under Clause No. 4.1, Section 4C, Volume-I of bid specification. For this purpose the payment shall be the monthly as indicated in Clause No. 3.0, Section 4C, Volume-I of bid specification.
- 16.2.3 The rates of Liquidated Damages to meet plant availability shall be as per Clause No. 4.3, Section 4C, Volume-I of bid specification.
- 16.2.4 The Liquidated damages shall be limited to 10% of the contract value for corresponding month in which availability is calculated excluding taxes & duties.
- 16.2.5 Taxes & duties as applicable on Liquidated Damages shall be on account of the contractor. Mahagenco shall recover the same along with Liquidated Damages from the contractor.

17.0 MSPGCL'S REPRESENTATIVE AT SITE :

Chief Engineer (Project), Koradi and/or his representative appointed for the purpose shall be MSPGCL's representative at site and shall act as In-charge for all site works for the EPC contract purpose. The Contractor's Resident Engineer shall report to them for all day to day works.

18.0 CONSIGNEE :

All the goods supplied pursuant to the contract shall be consigned to,
M/s. Shapoorji Pallonji And Company Private Limited,
C/o. Chief Engineer (Project), Koradi
Site Koradi TPS,
Maharashtra State Power Gen. Co. Ltd.,
Koradi TPS, Koradi.

19.0 MATERIAL INSPECTION & MDCC:

For Material Inspection and MDCC, Clause No. 3.0 & 4.0, Section -2A, Volume -I of Bid specification shall be applicable.

Controller of Quality shall be Chief Engineer (Construction), Koradi. Review and carrying out of material inspection before despatch & issue of MDCC shall be carried out by Consultant M/s. Fichtner Consulting Engineers (India) Pvt. Ltd.

20.0 FORCE MAJEURE:

No Party will be responsible for non-performance of any or all of their obligations under this Agreement if such non-performance is due to reasons beyond the reasonable control of the Parties. "Force Majeure" situations are also included in the expression "beyond the reasonable control of the Parties" including, but not, restricted to acts of god, declared or undeclared war, riots, civil wars, fires, floods, epidemics, strikes, freight embargoes, expropriation by Government authorities, rebellion, sabotage, abrupt change political / economical situations, depreciation of currency.

Provisions of clause No. 62.0, Section 2 & clause No. 62.0, Section-4A, Volume-I of Bid specification shall be applicable for force majeure.

21.0 TERMINATION OF CONTRACT BY MSPGCL:

The owner (MSPGCL), if reaches to the conclusion that the execution of the work is getting delayed inordinately and the contractor is wilfully not taking adequate measures to makeup the delay or is not capable to take adequate measures to make up the delays, apart from levying Liquidated Damages, the owner may invoke provisions of clause no. 61.0, Section-2 & clause no. 61, Section-4A, Volume-I of Bid specification.

22.0 ARBITRATION :

THE ARBITRATION AND CONCILIATION ACT, 1996 (including amendments thereto) and the rules thereunder, and any statutory notification thereof shall apply to the arbitration proceedings. If any disputes and differences of any kind whatsoever arising out of or in connection with the contract shall be as per clause no. 64, Section-2 & clause no. 64, Section-4A, Volume-I of Bid Specification.

23.0 JURISDICTION OF THE CONTRACT :

The contract shall be governed by the Indian laws and will be subject to the jurisdiction of the Courts in Mumbai, having jurisdiction to entertain the dispute.

24.0 OWNER'S CONSULTANT:

M/s. Fichtner Consulting Engineers (India) Pvt. Ltd, Chennai is Owner's consultant for this project. The postal address of consultant is as under:

M/s. Fichtner Consulting Engineers (India) Pvt. Ltd.

Menon Eternity, 9th Floor,

No. 165, St. Mary's Road, Alwarpet,

Chennai 600 018, India.

Fax: +91-44-45932809

Phone : +91-44-45932600

E-mail: fichtner@fichtnerindia.com Web: www.fichtner.co.in

This Letter of Award (LOA) is not exhaustive and is not intended to cover the entire scope and terms & conditions of the contract. All terms and conditions shall be applicable as per the bid specification as prescribed in E-Tender No. 3000035577 read with subsequent corrigendum, addendum, correspondence, amendments, clarifications, resolutions etc.

It is requested to confirm the acceptance of Letter of Award within 7 days from receipt of this letter on a letter head of the company duly signed & sealed by the authorized signatory along with signed & stamped copy of this LoA.

Thanking you,

Yours truly,



Chief Engineer (P&P)

Copy s.w.rs.to: (By email)

1. Director (Projects)/(Operations)/(Finance), MSPGCL, Mumbai
2. Executive Director (Projects)/(O&M-I/II), MSPGCL, Mumbai.

Copy f. w. cs to: (By email)

1. Chief Engineer (Projects) MSPGCL, Koradi.
2. CGM (Finance)/ (Accounts) MSPGCL, Mumbai.
3. Chief Engineer (Civil-I/II) MSPGCL, Dharavi, Mumbai / Bhusawal.
4. Chief Engineer (Const.) MSPGCL, Koradi.
5. Chief Engineer (O&M) MSPGCL, Koradi.

Copy to: (By email)

1. OSD to C.M.D. Mumbai
2. GM (Accounts) MSPGCL, Mumbai.
3. Sr. Manager (Loan), MSPGCL, Mumbai.
4. Sr. Manager (P& P, Accounts), Mumbai.


J.C.
C.F. Applicant
G.K. Sharma