

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL****WESTERN ZONAL BENCH AT PUNE****ORIGINAL APPLICATION NO. 62 OF 2021****IN THE MATTER OF:**

Krishi Vigyan Arogya Sansthan &amp; Ors.

...Applicants

Versus

Maharashtra State Power

Generation Company &amp; ors.

...Respondents

**INDEX****NDOH:- 18.03.2025**

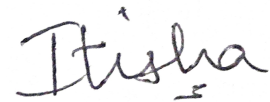
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	REJOINDER TO REPLY OF RESPONDENT NO. 2 DATED 04.12.2023 AND ADDITIONAL AFFIDAVIT DATED 02.12.2024	<b>1846-1854</b>

Proof of service

1855

Through


**RITWICK DUTTA**

**RAHUL CHOUDHARY**

**ITISHA AWASTHI  
ADVOCATES**

Counsel for the Applicant

N-73, Lower Ground Floor, Greater Kailash-1,

New Delhi-110048

Mobile No. 9312407881

**PLACE:- DELHI/PUNE****DATED:- 17.03.2025**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL****WESTERN ZONAL BENCH AT PUNE****ORIGINAL APPLICATION NO. 62 OF 2021****IN THE MATTER OF:**

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**REJOINDER TO REPLY OF RESPONDENT NO. 2 DATED 04.12.2023****AND ADDITIONAL AFFIDAVIT DATED 02.12.2024****MOST RESPECTFULLY SHOWETH:**

1. That the present Original Application has been filed highlighting the non-compliances of conditions of Environmental Clearance dated 04.01.2010 and its Amendment vide letter dated 23.03.2017 by Respondent No. 1 in operating Unit 8, 9 and 10 of the Koradi Thermal Power Station in Nagpur, Maharashtra. These non-compliances relate to shift in location of the project, failure to install Flue Gas Desulphurization, incomplete fly ash utilization, dumping of ash into bunds without LDPE/ HDPE lining, failure to utilize sewage water and failure to develop a green belt as per Environmental Clearance condition.
2. That Respondent No. 2 (Ministry of Environment, Forest & Climate Change) filed Reply dated 04.12.2023 and Additional Affidavit dated 02.12.2024 to the Original Application highlighting the violations by Respondent No. 1 in operating Unit 8, 9 and 10 of the Koradi Thermal Power Station in Nagpur, Maharashtra.

3. That the Reply dated 04.12.2023 filed by R-2 was downloaded from the website, however, Page No. 436 to 1111 of the Reply Affidavit are dim and not clear. Clear copy of the same have been sought from the advocate appearing on behalf of R-2. The Applicant reserves the right to respond to them, if found necessary.

**Multiple violations found by R-2 in the operation of Koradi Thermal Power Station in Nagpur, Maharashtra**

4. That Respondent No. 2 has stated that multiple violations were found during a site inspection conducted by Regional Office, Nagpur, MoEF&CC on 07.12.2021, based on which a Monitoring Report dated 29.12.2021 was submitted to R-2. Para 9 of the Reply Affidavit notes the violations found during such site inspection in the following manner:

*“The analysis of the inspection report revealed that the project has not been complying with various conditions stipulated in the EC specifically Wet limestone Flue gas desulphurization (FGD) and piezo wells have not been installed yet, a copy of the newspaper advertisement of EC letter has not been submitted, bulk transportation of fly ash by railway & erection of platform along the railway track for loading of fly ash by loaders in open wagons has not been done, work for transportation of coal by closed pipe conveyor has not been completed yet, construction Remote silo has not been completed, work of High Density Polyethylene (HDPE)/Low Density Polyethylene (LDPE) lining has not been taken up, solar roof top panel in the premise is not complete, recovery lines have not been commissioned, Work of dust suppression system and settling tank work for rainwater harvesting has not been completed yet, no regular groundwater monitoring is being done, Compliance reports has not been uploaded on company's website, development of green belt, non-compliance with the revised emission standards for PM, SO<sub>2</sub>, NO<sub>2</sub> & Hg as per Notification SO 3305(E) dated 07.12.2015, thick green belt around*

*ash dump has not been observed and Continuous Ambient Air Quality Monitoring Stations (CAAQMS) stations have not yet been integrated with Central Pollution Control Board (CPCB)."*

5. That it is clear that the following violations, amongst others were found in the operation of the units:

- (i) Wet limestone Flue gas desulphurization (FGD) and piezo wells have not been installed;
- (ii) Copy of the newspaper advertisement of Environmental Clearance letter has not been submitted;
- (iii) Bulk transportation of fly ash by railway not taking place;
- (iv) Erection of platform along the railway track for loading of fly ash by loaders in open wagons has not been done;
- (v) Work for transportation of coal by closed pipe conveyor has not been completed;
- (vi) Construction of remote silo not done;
- (vii) High Density Polyethylene (HDPE)/Low Density Polyethylene (LDPE) lining not there;
- (viii) Solar roof top panel in the premise not present;
- (ix) Recovery lines have not been commissioned;
- (x) Work of dust suppression system not undertaken;
- (xi) Settling tank work for rainwater harvesting not done;
- (xii) No regular groundwater monitoring is being done;
- (xiii) Compliance reports has not been uploaded on company's website;
- (xiv) No development of green belt;
- (xv) Non-compliance with the revised emission standards for PM, SO<sub>2</sub>, NO<sub>2</sub> & Hg as per Notification SO 3305(E) dated 07.12.2015;
- (xvi) Green belt around ash dump not observed;
- (xvii) Continuous Ambient Air Quality Monitoring Stations (CAAQMS) stations have not yet been integrated with Central Pollution Control Board.

6. That it is stated that on the basis of these violations, a clarification/condition- wise ATR dated 28.01.2022 was sought from R-1, however, it was never submitted. Therefore, a show-cause notice dated 14.08.2023 was issued to R-1. The Affidavit dated 02.12.2024 further

states that a personal hearing with the project proponent was held and an updated compliance report was submitted. MoEF&CC further sought an Action Taken Report from the project proponent which had not been submitted.

**Respondent No. 2 has failed to take any action against the project proponent and no steps for imposition of environmental compensation have been taken, despite noting multiple violations**

7. That even though violations by R-1 have been recorded by R-2 and it is evident that such violations can cause serious harm and damage to the environment as well as human health, the Reply Affidavit of R-2 does not provide any information on the steps taken by it for closure of the violator unit, imposition of environmental compensation and restoration of the area.
8. That the Environmental Clearance granted to the project gives the power to MOEF&CC to revoke the Environmental Clearance if the conditions are not complied with. Para 4 of the Environmental Clearance (@ Page 193) reads as follows:
 

*"4. The Ministry of Environment and Forests reserves the right to revoke the clearance if conditions stipulated are not implemented to the satisfaction of the Ministry. The Ministry may also impose additional environmental conditions or modify the existing ones, if necessary."*
9. That it is clear from the Reply and Additional Affidavit that show cause notices have been issued to the project proponent, clearly showing that the conditions have not been complied with to the satisfaction of the Ministry. However, the MoEF&CC has failed in its duty to take steps for revocation of the Environmental Clearance.
10. That further, the Environmental Clearance also provides that failure to comply with conditions of the Environmental Clearance may result in

withdrawal of the clearance and also action under Environment (Protection) Act, 1986. Para 6 reads as follows:

*"6. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environment (Protection) Act, 1986."*

11. That Section 3 of the Environment (Protection) Act, 1986 mandates the Central Government to take all measures for the purpose of protecting and improving the quality of environment and preventing, controlling and abating environmental pollution. These measures can be anything that the Central Government may deem necessary for the purposes of effective implementation of the provisions. In exercise of these powers, R-2 ought to have taken all steps to ensure that there is no further degradation by the violator unit's activities.

12. That R-2 ought to have taken steps to impose environmental compensation for the violation and non-compliance with the Environmental Clearance conditions by R-1 from the time of operation. This environmental compensation ought to have been calculated as per the formula as postulated by Central Pollution Control Board in "*Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund*" which takes into account number of factors such as pollution index of the industry, number of days of violation etc.

13. That the methodology states that this formula is to be applied in cases of non-compliance by industrial units:

***"As per the directions of Hon'ble Tribunal in the matter of O.A. No. 593 of 2017 (WP (CIVIL) No. 375/2012), CPCB had developed a methodology for assessing environmental compensation for noncompliance by industrial units, which was derived based on pollution potential with respect to air/water/hazardous waste, scale of operations, days of violation and location factor. Adopting similar premise, compensation for healthcare facilities has been derived***

*based on Health Risk factor, type of healthcare facility, size of operations, collection, handling, storage, transportation and disposal of biomedical waste."*

14. That the imposition of environmental compensation would have facilitated restoration of the environment of the area. However, by not taking any steps, R-2 has allowed continuing degradation of the environment while also not accounting for the past violations.

15. That the Hon'ble Tribunal (Principal bench) in the case of Raja Muzaffar Bhat v. Union Territory of Jammu & Kashmir & ors. (Original Application No. 690 of 2023) while considering the case of non-compliance with conditions of Environmental Clearance had directed for closure of the unit as well as imposition of environmental compensation for non-compliance with the conditions:

*"6. We also find that though the closure order has been issued by J& K PCC against respondent no.6 but no steps for imposition of environmental compensation for the past violations have been taken.*

*7. Member Secretary, J&K PCC appearing through virtual mode has submitted that he will take due steps to ensure that the closure order is fully complied with and will also take steps for imposition of environmental compensation for the past violation on respondent no.6 within a period of two weeks.*

...

*10. In view of the above, we do not find any reason to keep the present original application pending which is accordingly disposed of by directing the Member Secretary, J&K PCC to take appropriate action in terms of the observations made above after fully complying with the Principle of Natural Justice and file action taken report before the Registrar General within a period of three months. If found necessary, the matter will be listed before the Bench for consideration."*

16. That in light of the above, it is submitted that R-2 abdicated in its responsibility of ensuring environmental protection and failed to take steps to remediate past violations and to prevent future degradation of the environment.

17) Pass any other order as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.



**APPLICANT NO. 2**

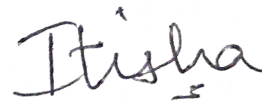
**THROUGH**



**RITWICK DUTTA**



**RAHUL CHOUDHARY**



**ITISHA AWASTHI  
ADVOCATES**

COUNSELS FOR THE APPLICANT  
N-73, LGF, Greater Kailash - 1,  
New Delhi - 110048  
Mobile: +91 9312407881  
Email: dclaw160@gmail.com

**VERIFICATION**

Verified by Pratap Goswami, authorized representative of Applicant No. 2, R/o 22, Ambazari Layout, Nagpur- 440033 do hereby verify that the contents of Paragraphs 1 to 17 are true to my personal knowledge and nothing material has been concealed therefrom.



**APPLICANT NO. 2**

## BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

## WESTERN ZONAL BENCH AT PUNE

## ORIGINAL APPLICATION NO. 62 OF 2021

**IN THE MATTER OF:**

Krishi Vigyan Arogya Sansthan &amp; Ors.

...Applicants

Versus

Maharashtra State Power Generation Company &amp; ors.

...Respondents

**AFFIDAVIT**

I, Pratap Goswami, authorized representative of Applicant No. 2, R/o 22, Ambazari Layput, Nagpur- 440033, do hereby solemnly affirm and declare as under:

1. That I am the authorized representative of the Applicant No. 2 in the above titled case, and hence well conversant with the facts and circumstances described in the present case and as such competent to swear this Affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.



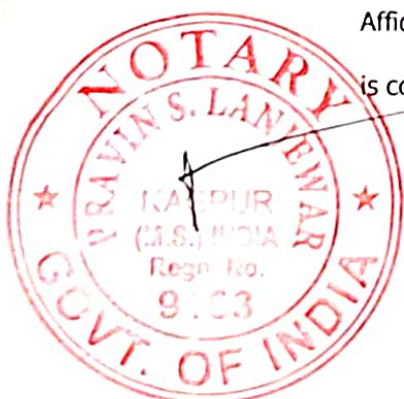
DEPONENT

**VERIFICATION**

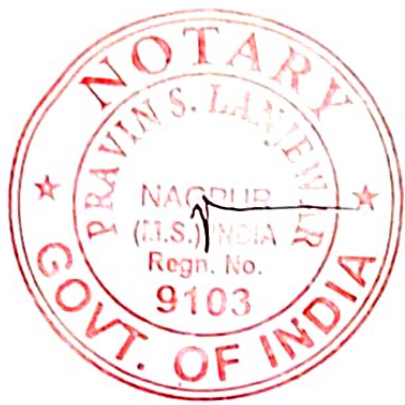
Verified on this 16<sup>th</sup> day of March 2025 that the contents of the present Affidavit are true and correct to my knowledge and belief and nothing material is concealed therefrom.



DEPONENT



NOTARIAL REG. 1854  
ENTRY NO. 33  
DATE 16/03/2025



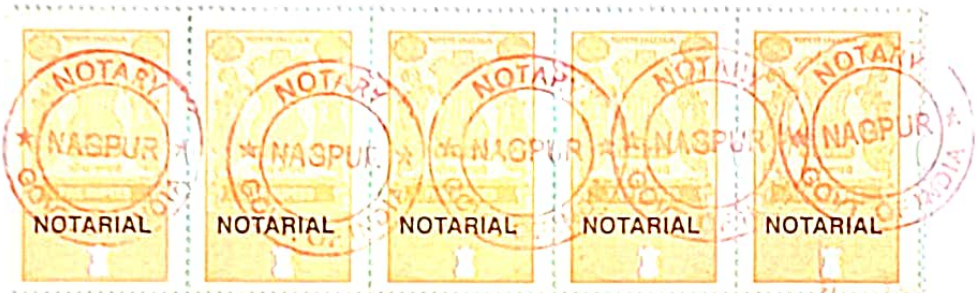
SWORN SOLEMNLY AFFIRMED  
BY Pratap Goswami

WHO IS PERSONALLY KNOWN  
TO ME IDENTIFIED BY S & F

BEFORE ME THIS THE 16<sup>th</sup>  
DAY OF March 2025  
NAGPUR

[Signature]  
16/3/2025

Pravin S. Lanjewar  
NOTARY  
NAGPUR DIST (M.S.)



1855



Litigation . &lt;litigation@dclawchambers.com&gt;

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**Copy of Rejoinder to Moef on behalf of the applicant in OA No. 62 of 2021 Krishi Vigyan Arogya Sanstha & Ors. Versus Maharashtra State Power Generation Co. Ltd. & Ors.**

1 message

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**Litigation .** <litigation@dclawchambers.com>

Mon, Mar 17, 2025 at 12:56 PM

To: Raghunath Mahabal &lt;mahabal60@gmail.com&gt;, Rahul Garg &lt;rahul.garg@mgklegal.com&gt;, Aniruddha Kulkarni &lt;aniruddha1488@gmail.com&gt;

Cc: itishaawasthi@proton.me

Dear Sir,

Please find attached- Copy of Rejoinder to Moef on behalf of the applicant in OA No. 62 of 2021 Krishi Vigyan Arogya Sanstha &amp; Ors. Versus Maharashtra State Power Generation Co. Ltd. &amp; Ors.

Thanks & Regards  
Counsel for the Applicant

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 **Rejoinder to MoEF behalf of Applicant.pdf**

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