

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCHAT NEW DELHI**

**ORIGINAL APPLICATION NO. 164 OF 2018**

Ashwani Kumar Dubey ... Applicant  
Versus  
Union of India & Ors. ... Respondents

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**RAJASTHAN STATE POLLUTION CONTROL BOARD**

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NEW DELHI

DATED: 15.03.2024

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

ORIGINAL APPLICATION NO. 164 OF 2018

Ashwani Kumar Dubey

... Applicant

Versus

Union of India &Ors.

... Respondents

**REPLY TO THE ORIGINAL APPLICATION ON BEHALF  
OF THE RAJASTHAN STATE POLLUTION CONTROL  
BOARD IN COMPLIANCE OF THE ORDER PASSED BY  
THIS HON'BLE TRIBUNAL ON 18.01.2024**

MAY IT PLEASE THIS HON'BLE TRIBUNAL:

The humble answering Respondent most respectfully submit this reply to the Original Application as under:-

1. The Original Application was tagged and heard along with other seven matters as there was a common issue in all these matters tagged together i.e. the remedial action against violation of environmental norms by the Thermal Power Plants (TPPs) causing air water and land pollution due to not installing requisite air pollution control and monitoring devices (FGDs and CAAQMS) to mitigate air pollution during operation of TPPs, unscientific handling and storage of fly ash beyond capacity of flyash dykes/ponds resulting in devastating accidents due to their breach. Such breaches have resulted in contamination of water sources, damage to crops, loss of human

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lives and flora and fauna. The same is source of continuing damage to public health and environment.

2. The present Original Application along with seven Original Application bearing Nos. 194/2020, 94/2020, 148/2020, 107/2020, 117/2014, 499/2014 & 102/2014 were disposed of by this Hon'ble Tribunal by a common order dated 18.01.2022.
3. The order dated 18.01.2022 was subject matter of challenge before the Hon'ble Supreme Court in Civil Appeal Nos.3856/2022, 4529/2022, 4525/2022 & 4581/2022 wherein an issue was raised that the eight Original Applications were decided without complying the Principles of Natural Justice.
4. The Hon'ble Supreme Court vide its Order dated 05.07.2023 has disposed of the appeals by setting aside the order passed by this Hon'ble Tribunal and remanding the matter back for reconsideration with the following directions:-

*"18. We have perused the impugned order of the NGT and particularly paragraph „16“ which has been extracted above. It is apparent that the appellant(s) herein who were respondents before the NGT were not given an opportunity to file their objections to the recommendations made by the Committee constituted by the NGT which is apparent by the fact that the recommendations were uploaded on 15.01.2022 and the final order of the NGT was passed three days later on, i.e. 18.01.2022. Thus, this is a clear case of there being non-compliance with the principles of natural justice. On the said ground alone the impugned order is set aside, the*

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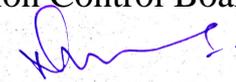
*matter is remanded to the NGT for reconsideration from the stage of the recommendations filed by the expert Committee constituted by the NGT. The appellant(s) herein are permitted to file their objections, if they are so advised. The NGT shall consider the objections, if any, filed to the recommendations and thereafter dispose of the applications in accordance with law and after giving a reasonable opportunity to all parties.*

*19. The appeals are allowed and disposed of in the aforesaid terms. Pending application(s), if any, shall stand disposed of."*

5. Thus, in compliance of the Orders passed by the Hon'ble Supreme Court of India, this Hon'ble Tribunal directed its registry to issue notice to all the Applicants and Respondents in the Original Applications in order to provide an opportunity to hear all the concerned parties.
6. The inputs with regard to fly ash utilization(w.r.t. court case number 117/2014, Shantanu Kumar) by the Thermal power Plants as mentioned in the factual status of Thermal Power Plants prepared by the answering Respondent is based on the data provided by the CPCB vide its letter IPC-II/TPP/CP-11/76/2022/3912 for the year 2022-2023 dated 20.02.2024. The photo copy of the factual status of the Thermal Power Plants containing detailed information of fly ash utilization by the Thermal Power Plants is being annexed herewith and marked as **Annexure 1.**

(Rajasthan State Pollution Control Board)

THROUGH



(Nishant Awana)

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ORIGINAL APPLICATION NO. 164 OF 2018

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**AFFIDAVIT IN SUPPORT OF REPLY TO THE ORIGINAL  
APPLICATION**

I, Pratibha Singh , D/o Hari Singh, aged about 35 years, at present working as Environmental Engineer, Rajasthan State Pollution Control Board, Jaipur do hereby take oath as under:-

1. That I am Officer-in-Charge of the answering-Respondent. Hence, being officer-in-charge, I am well conversant with the facts and circumstances of the present case.
2. That the annexed affidavit cum reply to Original Application has been drafted by my counsel under my instructions and I have carefully read over and understood the contents thereof.
3. That the contents of reply to Original Application are true and correct on the basis of the official records.

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**VERIFICATION:**

I, the abovenamed deponent do solemnly take oath andstate that the contents of Para Nos.1 to 3 of the affidavit are true and correct on the basis of official records and no part of it is either incorrect or false nor any material has been concealedthere from.

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Factual Status of Thermal Power Plants in reference of Appeal no. O. A. 164/2018, Ashwani  
Kumar Dubey V/s Union of India & Ors.

Detailed information of the fly ash utilization by Thermal Power Plants is as follows:-

| Name of power plant                                | Year    | Capacity | Quantity of ash generation (MT) | Total quantity of ash utilized (MT) | Target of Fly ash utilization % as per MoEF & CC | Actual % of fly ash utilization by the thermal power plant | Remarks |
|--|---------|----------|---------------------------------|-------------------------------------|--|--|---------|
| Suratgarh Super Thermal Power Plant, Sriganganagar | 2022-23 | 1500 MW  | 1991272.09                      | 1974610.51                          | 100  | 99.16  | -       |

| Name of power plant                    | Year    | Capacity | Quantity of ash generation (MT) | Total quantity of ash utilized (MT) | Target of Fly ash utilization % as per MoEF & CC | Actual % of fly ash utilization by the thermal power plant | Remarks |
|--|---------|----------|---------------------------------|-------------------------------------|--|--|---------|
| Kota Super Thermal Power Station, Kota | 2022-23 | 1240 MW  | 2103763.5                       | 2588336                             | 100  | 123.03   | -       |

| Name of power plant                  | Year    | Capacity | Quantity of ash generation (MT) | Total quantity of ash utilized (MT) | Target of Fly ash utilization % as per MoEF & CC | Actual % of fly ash utilization by the thermal power plant | Remarks   |
|--------------------------------------|---------|----------|---------------------------------|-------------------------------------|--|--|---|
| Chhabra Thermal Power Station, Baran | 2022-23 | 1000 MW  | 1366011                         | 691121                              | 100  | 50.59  | For non-compliances found during inspection regarding fly ash utilization, a show cause notice for imposition of Environmental Compensation has been issued vide State Board letter dated 29.02.2024. |

| Name of power plant                         | Year    | Capacity | Quantity of ash generation (MT) | Total quantity of ash utilized (MT) | Target of Fly ash utilization % as per MoEF & CC | Actual % of fly ash utilization by the thermal power plant | Remarks |
|---|---------|----------|---------------------------------|-------------------------------------|--|--|---------|
| Kawai (Adani) Thermal Power Station (Baran) | 2022-23 | 1320 MW  | 1359564                         | 1380649                             | 100  | 101.55   | -       |

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| Name of power plant                             | Year    | Capacity | Quantity of ash generation (MT) | Total quantity of ash utilized (MT) | Target of Fly ash utilization % as per MoEF & CC | Actual % of fly ash utilization by the thermal power plant | Remarks   |
|---|---------|----------|---------------------------------|-------------------------------------|--|--|---|
| Kalisindh Super Thermal Power Project, Jhalawar | 2022-23 | 1200 MW  | 1472033                         | 1096428                             | 100  | 74.48  | Due to non-compliances found during inspection an Environmental Compensation of Rs. 1,70,43,000 has been imposed on industry vide letter dated 05.02.2024 by State Board. |

| Name of power plant                           | Year    | Capacity | Quantity of ash generation (MT) | Total quantity of ash utilized (MT) | Target of Fly ash utilization % as per MoEF & CC | Actual % of fly ash utilization by the thermal power plant | Remarks   |
|---|---------|----------|---------------------------------|-------------------------------------|--|--|---|
| Chhabra Super Critical Thermal Station, Baran | 2022-23 | 1320 MW  | 1634256                         | 1048667.98                          | 100  | 64.17  | A show cause notice for intended refusal of consent application has been issued by State Board vide its letter dated 06.02.2024 as per non-compliances found during inspection. |

| Name of power plant                 | Year    | Capacity | Quantity of ash generation (MT) | Total quantity of ash utilized (MT) | Target of Fly ash utilization % as per MoEF & CC | Actual % of fly ash utilization by the thermal power plant | Remarks |
|-------------------------------------|---------|----------|---------------------------------|-------------------------------------|--|--|---------|
| Neyveli Lignite Corp. Ltd., Bikaner | 2022-23 | 250 MW   | 198680.12                       | 198680.12                           | 100  | 100  |         |

| Name of power plant                      | Year    | Capacity | Quantity of ash generation (MT) | Total quantity of ash utilized (MT) | Target of Fly ash utilization % as per MoEF & CC | Actual % of fly ash utilization by the thermal power plant | Remarks |
|--|---------|----------|---------------------------------|-------------------------------------|--|--|---------|
| JSW Energy (Raj West Power Ltd.), Barmer | 2022-23 | 1080 MW  | 911807                          | 947666                              | 100  | 103.93   |         |

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**Note:-**

- The above data has been submitted as per CPCB letter IPC-II/TPP/CP-11/76/2022/3912 dated 20.02.2024 for the year 2022-23.
- The fly ash utilization data by M/s Giral Lignite Pvt. Ltd., Barmer has not been submitted by the industry to CPCB, SPCB and on Fly Ash Portal as industry is closed /shut down since 2014.

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