

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
ORIGINAL APPLICATION NO. 30 OF 2021 (SZ)

In the matter of:

1. Dharmesh Shah
No. 92, Thiruvalluvar Nagar
3rd Street, Besant Nagar
Chennai - 600 090
Email: litigation.life@gmail.com
Ph: +91 93124 07881

... APPLICANT

Vs.

1. Union of India
Through the Secretary
Ministry of Environment, Forests & Climate Change
Indira Parayavaran Bhawan, New Delhi
Email: secy_moeff@nic.in
Ph: 91-11-24695262

2. Central Pollution Control Board
Through the Chairman
Parvesh Bhavan, East Arjun Nagar
Delhi - 110 032
Ph: 91-11-22306001
ccb.cpcb@noic.in

3. Central Electricity Authority
Through the Chairperson
Sewa Bhavan, R.K. Puram
Sector - 1, New Delhi, 110 066
Ph: 91-11-26732222
Email: chair@nic.in

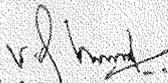
4. M/s. NLC India Ltd.
Through its General Manager
1st Floor, No. 8, Mayor Sathyamurthy Road
FSD, Egmore Complex of FCI
Chetpet, Chennai - 600 031
Ph: 044- 28364613

.... RESPONDENTS

**REPLY STATEMENT FILED ON BEHALF OF THE FOURTH
RESPONDENT**

**The Fourth Respondent named above most respectfully submits
as under:**

1. The Fourth Respondent denies each and every allegation and averment made by the Applicant in the aforesaid Application unless specifically admitted herein under.


Chief General Manager/Unit Head
Thermal Power Station-I
NLC India Ltd., Neyveli-7

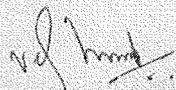
2. The present Application is filed by the Applicant under sections 14, 15 and 20 of the National Green Tribunal Act, 2010 with regard to the decommissioning of 9 units of the Thermal Power Station/ Plant - I (TPS -I) having a total capacity of 600 MW.

3. Before traversing the allegations in the Application, the Fourth Respondent submits the facts, in brief, which are relevant to the aforesaid Application:

a. The Fourth Respondent is a Central Public Sector Undertaking (**CPSU**) and a limited company incorporated in the year 1956. It is categorised as a Navratna Company and falls under the administrative control of the Ministry of Coal, Government of India. The Fourth Respondent operates four opencast Lignite mines, five Lignite-based thermal power stations and one Coal-based thermal power plant. The Coal-based thermal power plant is operated on a joint venture basis. It is pertinent to mention that apart from the aforesaid thermal power plants, the Fourth Respondent is also actively setting up renewable energy-based power plants such as wind and solar based plants.

b. The Fourth Respondent was set up by the Government of India to ensure that the electricity demands of the State of Tamil Nadu and the neighbouring States such as Andhra Pradesh, Karnataka, Kerala, Telangana and Union Territory of Puducherry are met.

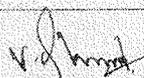
c. The first of the Thermal Power Plants to be installed and operated by the Fourth Respondent was the TPS I. The TPS I comprised of the following 9 units:


Chief General Manager/Unit head
Thermal Power Station-I
NLC India Ltd., Neyveli-7

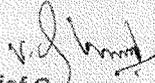
| Unit Nos. | Capacity of Unit | Date of commencement of operation |
|-----------|------------------|-----------------------------------|
| 1 | 50 MW | 23/05/1962 |
| 2 | 50 MW | 23/01/1963 |
| 3 | 50 MW | 11/06/1963 |
| 4 | 50 MW | 27/10/1963 |
| 5 | 50 MW | 29/04/1964 |
| 6 | 50 MW | 24/08/1965 |
| 7 | 100 MW | 28/03/1967 |
| 8 | 100 MW | 12/02/1969 |
| 9 | 100 MW | 21/02/1970 |

- d. It is submitted that during the operation of TPS I, other power plants were also installed, commissioned and put into operation by the Fourth Respondent.
- e. It is submitted that the Fourth Respondent operated all its power plants and mines in accordance with the law and after following all environmental related safeguards.
- f. Due to the age of the units in TPS I, the Fourth Respondent decided to retire the 9 units of said TPS I for techno-economic and environmental reasons. In specific terms, the units of the TPS I was decommissioned on the following dates:

| Unit Nos. | Date of decommissioning |
|-----------|-------------------------|
| 1 | 31/03/2020 |
| 2 | 20/06/2020 |
| 3 | 22/07/2020 |
| 4 | 23/06/2020 |
| 5 | 28/09/2020 |
| 6 | 30/09/2020 |
| 7 | 22/09/2018 |
| 8 | 06/06/2020 |
| 9 | 31/03/2020 |

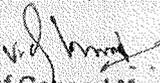

 Chief General Manager/Unit Head
 Thermal Power Station-I
 NLC India Ltd., Neyveli-7

- g. It is submitted that pursuant to the Fourth Respondent's decision to decommission the units of the TPS I, in a phased manner, and the final decommissioning thereof, the Fourth Respondent informed the Central Electricity Authority of India i.e. the Third Respondent of the same vide various communications which was also acknowledged by the Third Respondent.
- h. It is submitted that, as on date, all 9 units of TPS I have been decommissioned or have been phased out and remain inoperative. A tender will be issued for the dismantling of the plant and it is further submitted that the tender conditions would include various safeguards to be taken by the contractor to adhere to all environmental related norms and dismantle the units in the manner that is safe to the environment. In this regard, it is submitted that the Fourth Respondent, through its environmental cell comprising of skilled environmental engineers and personnel, shall assess the units for the purpose of assessing the various standard operating procedures or safeguards to be adopted.
- i. It is submitted that while dismantling the units of TPS I, the Fourth Respondents would encounter hazardous waste such as asbestos sheets on the temporary sheds, thermal insulation material containing asbestos provided in the valves and heater flanges, oil sludge (both furnace and diesel oil) which remain in the oil tanks, e-waste such as switches etc. and polychlorinated biphenyls (PCB) in the oil of transformers located within the units. In addition, the Fourth Respondent would also encounter bottom ash or dyke ash in the dyke ash pond of TPS I. It is submitted that the aforementioned hazardous waste and the dyke ash that the Fourth Respondent would encounter would be disposed strictly in accordance with the law and in an environmentally sound manner and


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NLC India Ltd., Neyveli-7

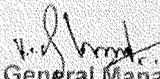
upon following all applicable laws, including the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (**2016 Rules**).

- j. With regard to the **mercury** thermometers; it is submitted that the same has been handed over for the purpose of utilisation by the other functional units of the Fourth Respondent. Hence, the question of mercury wastage from the thermometers or causing any harm or damage to the environment does not arise. In so far as the mercury in vapor lamps, it is submitted that the same would be disposed in accordance with the 2016 Rules.
- k. It is submitted that **asbestos** sheets that are used for roofing certain temporary sheds, thermal insulation materials containing asbestos used in the valves and flanges of heaters would be dismantled and disposed in accordance with 2016 rules. The gloves and curtains are being utilised by other functioning units of the Fourth Respondent. Pursuant to the stoppage of the units in TPS I, there is bound to be oil sludge in the oil tanks which would also require safe disposal.
- l. Further, there would also be some **e-waste** that remains during the process of dismantling the units.
- m. It is submitted that **PCB** is an additive to transformer oil. Transformer oil is used as a coolant and insulating medium in power transformers. Transformer oil with PCB would remain in such transformers pursuant to the decommissioning of the TPS I. It is pertinent to state that the First Respondent vide an order, S.O 1327 (E) dated 06/04/2016, has issued the 'Regulation of Polychlorinated Biphenyls Order, 2016' (**PCB Order**). It is submitted that under the PCB Order, it is mandated that the occupier shall not simply drain the PCB onto land or


Chief General Manager/Unit Head
Thermal Power Station-I
NLC India Ltd., Neyveli-Z

the effluent treatment plant, but, ought to be disposed as per the provisions of the 2008 Rules (presently, the 2016 Rules). In this regard, it is submitted that the Fourth Respondent has identified the transformers that contain PCB by engaging the services of Central Power Research Institute. The Fourth Respondent shall take steps to engage the services of recognised agencies to carry out the de-chlorination of the transformer oil. Therefore, it is submitted that the Fourth Respondent shall proceed to dispose PCB in accordance with the 2016 Rules and the PCB Order.

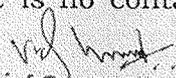
- n. It is submitted that the Fourth Respondent will seek the permission or clearance of the Second Respondent to dispose the **dyke or bottom ash**, in accordance with the law, after following the necessary safeguards.
- o. In this regard, it is submitted that the 2016 Rules provides for disposal of hazardous waste such as asbestos, mercury and oil sludge through recognised operators of common facilities or authorised disposal facilities which would treat, store and dispose the hazardous waste as those mentioned above. It may also be examined by the Fourth Respondent, at the relevant stage, if there is a possibility of handing the waste mentioned above to an authorised actual user or re-user in terms of the 2016 Rules. The Fourth Respondent would identify the authorised agents or entities from the pollution control boards, concerned. Thus, the Fourth Respondent would ensure safe and environmentally sound means of disposing the hazardous waste while the dismantling of the decommissioned units in TPS I.
- p. The Fourth Respondent respectfully submits that it would ensure environmentally sound measures while disposing the hazardous waste and the dyke ash and would also adopt environmentally sound technology in


Chief General Manager/Unit Head
Thermal Power Station-I
NLC India Ltd., Neyveli-7

the safe disposal of all hazardous waste. Needless to state, the Fourth Respondent shall adhere to any direction issued by this Hon'ble Tribunal or any further Standard Operating Procedure or guidelines to be issued by the other Respondents with regard to disposal of the hazardous waste while dismantling the units of the TPS I.

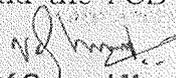
4. Para-wise reply:

- a. In reply to paragraph 1 of the Application, the Fourth Respondent is not aware about the credentials of the Applicant and hence is not traversing upon the same. Such non-traversal ought not to be treated as an admission of the averments made by the Applicant.
- b. It is submitted that the contents of paragraph 2 of the Application is a matter of fact and record.
- c. In reply to paragraphs 3 to 5, it is submitted that the Fourth Respondent had decided to phase out the units of TPS I for techno-economic and environmental reasons considering the age of the units of TPS I. It is submitted that the units of TPS I have been deleted from All India Installed Capacity data base maintained by the Third Respondent.
- d. The contents of paragraph 6 are false and vehemently, denied. As stated above, the Fourth Respondent would encounter hazardous waste such as asbestos sheets, mercury in the vapor lamps, oil sludge (both furnace and diesel oil), e-waste such as switches etc. and PCB in transformer oil; all of which are provided for under the 2016 Rules and the said Rules also provide for the careful disposal of the waste through common treatment, storage and disposal facilities whose services shall be engaged by the Fourth Respondent. The question of the site where the units are put up being contaminated does not arise considering that there is no contamination of


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NLC India Ltd., Neyveli-7

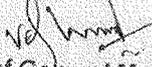
those sites by virtue of the units that were installed. It is submitted that considering that the 2016 Rules provide for each and every waste that may be encountered by the Fourth Respondent during the dismantling process, the said Rules is extensive enough to cover the process of dismantling the units and disposing the hazardous and other waste from the said units. The Fourth Respondent vehemently denies the baseless allegation of the Applicant that the Fourth Respondent is likely to prioritise economic concerns over proper and scientific decommissioning and scientific and safe disposal of hazardous waste and calls upon the Applicant to refrain from making such baseless and false statements. It is submitted that the Fourth Respondent shall follow scientific steps in dismantling the units of the TPS I and strictly adhere to the 2016 Rules and PCB Order. The Fourth Respondent shall also follow any further standard operating procedures or guidelines issued by the other Respondents, from time to time, if applicable for the purpose of dismantling the units of TPS I.

- e. The Fourth Respondent is not aware about the contents of paragraph 7. Be that as it may, the units of TPS I being within the complex of the Fourth Respondent along with various lignite mines, the Fourth Respondent will take adequate steps to dispose the dyke or bottom ash in accordance with the law and after obtaining the permission of the Second Respondent.
- f. The Fourth Respondent is not aware about the contents of paragraph 8. It is submitted that the Fourth Respondent shall adhere to all the environmental norms while disposing the hazardous and other waste. Further, the tender conditions would also include the obligation for the safe disposal of the waste in accordance with the law, including the 2016 Rules and the PCB Order. It is


Chief General Manager/Unit Head
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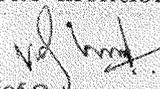
also submitted that materials containing asbestos and transformer oil containing PCB will be disposed in accordance with the law

- g. In reply to paragraph 10 it is submitted that **asbestos** sheets that are used for roofing certain temporary sheds and clothes and ropes which are thermal insulation materials containing asbestos used in the valves and flanges of heaters would be dismantled and disposed in accordance with 2016 rules. It is submitted that there is no asbestos in steel pipe insulation, gasket joints in hot water pipe drains or in duct insulation as alleged by the Applicant. The gloves and curtains, that contain minute quantity of asbestos, are reused by virtue of putting those gloves and curtains to use in other functioning units of the Fourth Respondent.
- h. In reply to paragraph 11, it is submitted that the **PCB** contained in the oil in the transformers shall be disposed strictly in accordance with the 2016 Rules and the PCB Order. Further, the Fourth Respondent, in consultation with the Central Power Research Institute shall prepare a Standard Operating Procedure prior to disposal of the transformer oil after de-chlorinating the same.
- i. In reply to paragraph 12, it is submitted that there are thermometers which contain **mercury** which would be put to use in other functioning units, as stated above. It is also submitted that there is no mercury in switches or instruments as alleged by the Applicant. In so far as the mercury vapor lamp is concerned, the same would be disposed in terms of the 2016 Rules. It is further submitted that there are no traces of **lead** in paint, as alleged by the Applicant.
- j. Pursuant to the stoppage of the units in TPS I, there is bound to be **oil sudge** in the oil tanks which would also


Chief General Manager/Unit Head
Thermal Power Station-I
NLC India Ltd., Neyveli-7

require safe disposal. Further, there would also be some **e-waste** that remains during the process of dismantling the units. In this regard, the 2016 Rules provides for disposal of hazardous waste such as asbestos, mercury and oil sludge through recognised operators of common facilities or authorised disposal facilities which would treat, store and dispose the hazardous waste as those mentioned above. It may also be examined by the Fourth Respondent, at the relevant stage, if there is a possibility of handing the waste mentioned above to an authorised actual user or re-user in terms of the 2016 Rules. Thus, the Fourth Respondent would ensure safe and environmentally sound means of disposing the hazardous waste while the dismantling of the decommissioned units in TPS I.

- k. In reply to paragraph 13, it is submitted that all the fly ash that were generated by the units of TPS-I were consumed by various cement entities. In so far as the remaining quantities of bottom or dyke ash, the Fourth Respondent will seek the permission or clearance of the Second Respondent to dispose the dyke or bottom ash in accordance with law in an environmentally sound and safe manner.
- l. It is submitted that the contents of paragraph 14 are a matter of fact. The Fourth Respondent shall adhere to the law while dismantling the units of TPS I and shall ensure environmentally sound practices while dismantling the units. It is submitted that the existing units had not adversely impacted the soil. During dismantling of the same, the Fourth Respondent shall follow standard operating procedures while draining the oil from the transformers that contain PCB, removing sludge from the oil tanks and while removing the asbestos from the various areas mentioned above. It is


Chief General Manager/Unit Head
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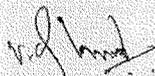
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further relevant to state that there is no lignite or traces thereof in the bunkers considering that the same has been cleared. Further, the pipes that carried furnace and diesel oil (not containing PCB) have been flushed using steam ensuring safe dismantling of the pipes. It is submitted that the site, after dismantling the unit in accordance with the Law and in an environmentally safe and sound manner after following standard operating procedures, will be used for industrial purpose. Remediation and rehabilitation will be done based on future land use.

m. In reply to paragraph 15, it is submitted that Fourth Respondent shall strictly follow scientific steps in dismantling the units of the TPS I and strictly adhere to the 2016 Rules and PCB Order. The Fourth Respondent shall also follow any further standard operating procedures or guidelines issued by the other Respondents, from time to time, if applicable for the purpose of dismantling the units of TPS I. It is reiterated that the 2016 Rules being extensive to cover all wastes that the Fourth Respondent would possibly encounter during the process of dismantling the units, the Fourth Respondent shall strictly adhere to the said Rules and the PCB Order.

n. The contents of paragraphs 16 to 18 are reference to Orders of this Hon'ble Tribunal which is binding on all parties concerned, as applicable.

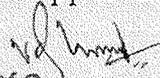
o. In reply to paragraph 19 of the application, it is submitted that the Fourth Respondent is not aware about the documents of other entities concerning decommissioning and dismantling of their respective plants. It is submitted that the Fourth Respondent shall take all steps necessary to ensure the protection of the environment. As stated above, the Fourth Respondent


Chief General Manager/Unit Head
Thermal Power Station-I
NLC India Ltd., Neyveli-7

shall follow the 2016 Rules and the PCB Order while disposing the hazardous and other waste from the dismantling of the units of the TPS I. While the Fourth Respondent is not traversing upon the contents of the purported "Research Paper" of the Applicant, it is submitted that the 2016 Rules is extensive to cover all the hazardous and other waste that would be encountered during dismantling and the Fourth Respondent shall duly adhere to the proper and scientific disposal of the said hazardous and other waste in accordance with the 2016 Rules and PCB Order. The Fourth Respondent further submits that it shall also adhere to all additional standard operating procedures or guidelines that may be issued by the other Respondents. The dismantling will not cause any contamination to ground for the reasons already mentioned above. The Fourth Respondent shall strictly adhere to the law and follow environmentally sound and scientific methods to ensure the safe dismantling of the units of TPS I.

5. Reply to the Grounds:

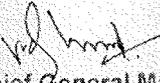
- a. In response to ground A, it is submitted that the Fourth Respondent shall take all environmentally safe measures to ensure the safe and sound dismantling of the Units of the TPS I.
- b. In response to grounds B, C and G, it is submitted that it is the duty and responsibility of the Fourth Respondent to follow proper protocols while handling hazardous waste and while dismantling the Units whether a direction is passed or not. Needless to state, the Fourth Respondent shall adhere to all protocols and safety measures while handling hazardous waste.
- c. In response to ground D, it is submitted that the substances referred to by the Applicant in the ground


Chief General Manager/Unit Head
Thermal Power Station-I
NLC India Ltd., Neyveli-7

under reply are hazardous in nature and the Fourth Respondent shall take adequate safety measures to ensure the disposal of those substances in an environmentally sound and safe manner.

- d. Ground E is a reference to Rule 4 (1) (f) of the 2016 Rules.
- e. In response to ground F, it is submitted that there has been no pollution attributable to this Respondent with regard to the decommissioning or the proposed dismantling of the Units of the TPS I. Be that as it may, it is respectfully submitted that the Fourth Respondent shall take all necessary steps to rehabilitate the land on which the units are in existence, in a scientific manner, for industrial purpose and further, safely ensure the disposal of the substances that are hazardous in nature, in accordance with law.
6. It is submitted that above application is baseless and frivolous in nature and lacks merit considering that there are necessary laws in place and authorities constituted with regard to the activity of dismantling a thermal power plant and to ensure its safe and environmentally sound manner in dismantling a unit. It is further submitted that no harm shall be caused to the environment or contaminate water, air or soil during the process of dismantling the units of TPS I.

Hence, for the reasons aforementioned, it is most respectfully prayed that this Hon'ble Tribunal be pleased to dismiss the Application (Application No. 30/ 2021) filed by the Applicant with costs and pass any such further or other orders as this Hon'ble Tribunal deems fit and proper and thus render justice.


Chief General Manager/Unit Head
Thermal Power Station-I
NLC India Ltd., Neyveli-7

FOURTH RESPONDENT

**COUNSEL FOR THE FOURTH RESPONDENT**

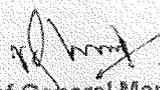
S. Arjun Suresh, B. Kishore,
Raghavendra Ross Divakar
Apoorva S. Vinjamur and
Noyal James
Dua Associates
Advocates and Solicitors
Palani Centre, No. 32, Venkatanarayana Road
T Nagar, Chennai - 600017

Place: Neyveli

Dated: 12/04/2021

VERIFICATION

I, V. Manoharan, S/o. R. Viswanathan, aged about 59 years, the CGM/Unit Head of TPS-I of the Fourth Respondent, having office at TPS-I, NLC India Ltd, Neyveli - 607807 do hereby verify that the contents of paragraphs 1 to 6 above are true and correct to my personal knowledge and belief and that I have not suppressed any material fact.



Chief General Manager/Unit Head
Thermal Power Station-I
NLC India Ltd., Neyveli-7
FOURTH RESPONDENT

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
ORIGINAL APPLICATION NO. 30 OF 2021 (SZ)**

In the matter of:

1. Dharmesh Shah
No. 92, Thiruvalluvar Nagar
3rd Street, Besant Nagar
Chennai - 600 090
Email: litigation.life@gmail.com
Ph: +91 93124 07881

... APPLICANT

Vs.

1. Union of India
Through the Secretary
Ministry of Environment, Forests & Climate Change
Indira Parayavaran Bhawan, New Delhi
Email: secy-moef@nic.in
Ph: 91-11-24695262
2. Central Pollution Control Board
Through the Chairman
Parvesh Bhavan, East Arjun Nagar
Delhi - 110 032
Ph: 91-11-22306001
ccb.cpcb@noic.in
3. Central Electricity Authority
Through the Chairperson
Sewa Bhavan, R.K. Puram
Sector - 1, New Delhi, 110 066
Ph: 91-11-26732222
Email: chair@nec.in
4. M/s. NLC India Ltd.
Through its General Manager
1st Floor, No. 8, Mayor Sathyamurthy Road
FSD, Egmore Complex of FCI
Chetpet, Chennai - 600 031
Ph: 044- 28364613

.... RESPONDENTS

AFFIDAVIT

I, V. Manoharan, S/o. R. Viswanathan, aged about 59 years, CGM/Unit Head of TPS -I of the Fourth Respondent, having office at TPS - I, NLC India Ltd, Neyveli - 607807, do hereby solemnly affirm and state as under:


 Chief General Manager/Unit Head
 Thermal Power Station-I
 NLC India Ltd., Neyveli-7

1. That I am the CGM/Unit Head of TPS -I of the Fourth Respondent, NLC India Ltd and authorised to execute this affidavit on behalf of Fourth Respondent. That I am conversant with the facts and circumstances of the present case and I am competent to swear to this affidavit.
2. That the contents of the accompanying Reply Statement dated 12.04.2021 are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

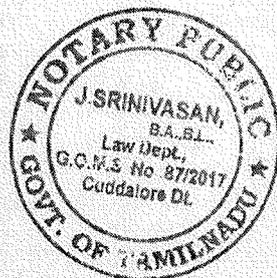
V. S. Murthy
 Chief General Manager/Unit Head
 Thermal Power Station-I
 NLC India Ltd., Neyveli-7

DEPONENT

VERIFICATION

Verified on this 12th day of April, 2021 that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed therefrom.

| | |
|--|---|
| Solemnly affirmed at Neyveli on this the 12 th day of April 2021 and signed his name in my presence | DEPONENT <i>V. S. Murthy</i> Chief General Manager/Unit Head Thermal Power Station-I NLC India Ltd., Neyveli-7 |
|--|---|



C2 → *Boyer me*

12.04.2021
J. SRINIVASAN, B.A., B.L.,
ADVOCATE & NOTARY PUBLIC
C-31, THIRUVALLUVAR SALAI
BLOCK-17, NEYVELI-607 801.
 M.S 360/87



**BEFORE THE NATIONAL GREEN
TRIBUNAL, SOUTHERN ZONE
BENCH AT CHENNAI**

O.A. 30 of 2021 (SZ)

Dharmesh Shah,

...APPLICANT

Versus

Union of India
& 3 Ors.

...RESPONDENTS

**REPLY STATEMENT
FILED ON BEHALF OF
THE FOURTH
RESPONDENT**

S. Arjun Suresh (1062/04)

B. Kishore (2776/10)

Raghavendra Ross

Divakar (2100/13)

Apoorva Vinjamur

(2414/18)

Noyal James (1119/18)

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