

**BEFORE THE NATIONAL GREEN TRIBUNAL
AT NEW DELHI
ORIGINAL APPLICATION NO. 327/2022**

IN THE MATTER OF:

AMRAVATI FLY ASH BRICKS MANUFACTURERS
ASSOCIATION

...APPLICANT

VERSUS.

UNION OF INDIA & ORS.

...RESPONDENTS

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ADVOCATE FOR THE RESPONDENT NO.9: SUDHANSHU PRAKASH

BEFORE THE NATIONAL GREEN TRIBUNAL
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**SHORT RESPONSE ON BEHALF OF THE RESPONDENT NO. 9/NTPC
LTD. TO THE PRELIMINARY REPORT OF THE AMICUS CURIAE
DATED 23.04.2025**

MOST RESPECTFULLY SHOWETH:

1. The Respondent No.9/NTPC Ltd. is filing a present short Response to the Preliminary Report filed by the Amicus Curiae dated 23.04.2025 in the captioned matter. The response is limited to the paragraphs where the statements made are factually or contextually incorrect.
2. That at the outset, the Respondent No.9 denies each and every averments, statements and contentions made in the Preliminary Report which are inconsistent with the contents of the present Reply and save those which are specifically admitted hereinafter. Further nothing contained in the Preliminary Report may be treated as admitted by the Respondent No. 9 merely for the want of specific traverse, unless specifically admitted in this response.
3. The para 16 of the Preliminary Report states, inter-alia, that Ministry of Environment, Forest [‘MoEF’] vide notification dated 14.09.1999 [with respect to legacy waste] in Clause 2(2) and 2(3) had directed the disposal of all legacy fly ash within a period of 10 & 15 years for Thermal Power Plants [‘TPPs’]. In that light, the assertion is made that the Notification dated 14.09.1999 itself contemplated that all

legacy fly ash would stand utilized at most by 2014. It has further been submitted that the issues raised in the present would perhaps not have arisen in large part had the notification dated 14.09.1999 been enforced strictly.

4. In this regard, it is submitted that the continued presence of legacy fly ash at TPPs may be due to several factors viz. non-availability of the required avenues in ash utilization and the acceptance of the ash based products. However, the Ministry of Environment, Forest and Climate Change (MoEF&CC) Notification dated December 31, 2021, addresses this issue by providing a revised framework for legacy fly ash management and also specifies the compliance cycles for achieving 100% ash utilization for TPPs. With the increased avenues as specified in Clause A(1) of the MoEF&CC notification dated 31.12.2021, and with increased awareness about the ash based products, the NTPC Ltd. has utilised the legacy fly ash upto 98.77%, for the FY 2024-25.
5. The para 17 of the Preliminary Report states, inter-alia, that several studies have been conducted analysing samples collected from villages located in close proximity of a TPPs and the adverse effects of fly ash on people's health, on soil fertility, on contamination of ground and surface water and the environment around TPPs where such fly ash gets deposited, is well documented.
6. In this regard, it is submitted that the NTPC Ltd. ensures strict compliance with all guidelines and requirements set by the MoEF&CC for handling of both dry and pond ash. As per Point A(5) of the Notification dated December 31, 2021, legacy fly ash stored in stabilized dykes, followed by plantation, poses no environmental hazard. NTPC Ltd. adheres to these standards by obtaining certifications from the Central Pollution Control Board ['CPCB'] or State Pollution Control Board ['SPCB'] for dyke stabilization, ensuring no risk of environmental pollution. Additionally, NTPC Ltd. also follows MoEF&CC protocols for dry ash handling and pond ash management to prevent breaches and contamination of water sources or soil. These measures mitigate the alleged adverse effects, ensuring compliance with environmental regulations.

7. That para 26 of the Preliminary Report states, inter-alia, that it prima facie appears that non-disposal of legacy waste generated several years ago, and the pollution caused due to storage of legacy waste, has resulted in violation of fundamental right to clean and healthy environment guaranteed by Article 21 of the Constitution of India.
8. In response, it is submitted that the said assertion that non-disposal of legacy fly ash and its storage causes significant environmental damage, is factually not correct. That as per Clause A(5) of the Ministry of Environment, Forest and Climate Change (MoEF&CC) Notification dated December 31, 2021 [quoted as under], specific measures have been taken to address these concerns effectively. Post-dyke stabilization & reclamation with green belt & plantation, legacy fly ash stored in stabilized dykes poses no environmental hazard.

“Provided further that the legacy ash utilisation shall not be required where ash pond or dyke has stabilised and the reclamation has taken place with greenbelt or plantation and the concerned State Pollution Control Board shall certify in this regard. Stabilisation and reclamation of an ash pond or dyke including certification by the Central Pollution Control Board (CPCB) or State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) shall be carried out within a year from the date of publication of this notification. The ash remaining in all other ash ponds or dykes shall be utilised in progressive manner as per the above mentioned timelines.”

It is further submitted that NTPC Ltd. ensures compliance by obtaining certification from the CPCB/SPCB/PCC for dyke stabilization & reclamation. This certification confirms that the stabilized dykes meet environmental safety standards. Thus, proper stabilization and reclamation of dyke, ensures no environmental hazard.

9. That para 27 of the Preliminary Report states, inter-alia, that the fact that the legacy waste still subsists at TPPs despite the mandate of earlier Notification dated 14.09.1999 [directing complete utilisation of fly ash by 2014], is in itself an admission of breach of Section 7 of the EPA, 1986.

10. In this regard, it is submitted that the MoEF&CC Notification dated December 31, 2021 has been amended vide amendment notification dated 30.12.2022 and the following proviso is inserted:

“Provided that ash stored in all ash ponds or dykes other than operational ash pond or dyke designated for temporary storage of ash as specified in sub-para (6) shall constitute the legacy ash and either to be reclaimed or stabilised or utilised.”

11. It is therefore submitted that all the operational dykes top raising is used for disposal of the ash and it is being utilized as per the avenues notified in MOEF&CC notification para A(1). Further the stability of such ash dykes is tested by reputed institutes like IITs. Consequently, with proper stabilization and certification of the exhausted dykes, the stability tests and the proper utilization of the current ash from the operational dykes, the non-disposal of legacy fly ash, if any, does not prima facie constitute a violation of Section 7 of the EPA, 1986, as it aligns with current regulatory measures to prevent environmental harm.

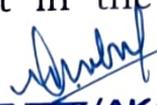
12. That the present short response is being filed to place on record the correct and contextual interpretation of the notifications and also the permissible measures undertaken within the regulatory framework. The Respondent No. 9 respectfully reserves its right to file a detailed response, if required, with the leave of this Hon'ble Tribunal, as and when necessary. That the Respondent No. 9 submits this response with utmost respect and commitment to assist this Hon'ble Tribunal in its adjudication of the matter. It is humbly prayed that the submissions of Respondent No. 9 may kindly be taken on record and considered.

PRAYER

In the aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble court may graciously be pleased to:

- (i) Take on record the present response to the Preliminary Report filed by the Amicus Curiae dated 23.04.2025 in the captioned matter; and

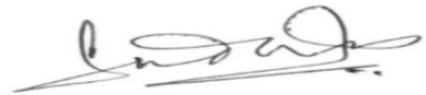
(ii) Pass such other order/orders or directions as this Hon'ble Commission may deem fit in the interest of justice and equity.


आकाश गुप्ता/AKASH GUPTA
प्रबंधक (राख प्रबंधन)
Manager (Ash Management)
एन टी पी सी लिमिटेड/NTPC LIMITED
EOC, A-8A, Sector-24, Noida-201301 (U.P.)

RESPONDENT NO. 9

N.T.P.C. LTD.

THROUGH



SUDHANSHU PRAKASH
ADVOCATE FOR RESPONDENT NO. 9

DATE: 05.08.2025

PLACE: NEW DELHI

**BEFORE THE NATIONAL GREEN TRIBUNAL
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AMRAVATI FLY ASH BRICKS MANUFACTURERS
ASSOCIATION

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

AFFIDAVIT

I, Akash Gupta, S/o Anil Kumar Gupta, aged about 34 years, working as Manager (Tech services-Ash Management) in the office of Respondent No. 9/NTPC Ltd., having its office at EOC, Block A, Sector 24, Noida, Uttar Pradesh 201307, presently at New Delhi, do hereby solemnly affirm and state as under:

1. I say that I am the authorized signatory of the Respondent No. 9 in the present matter and as such am competent to swear the present affidavit.
2. I say that I have read the contents of the accompanying Reply and I have understood the contents of the same. That the contents of the accompanying Reply are based on the information available with the Respondent No. 9 in the normal course of business and believed by me to be true.
3. That the annexures from P- - - - enclosed with the accompanying Reply are true copies of their respective originals and Annexures P- - - - are true typed/translated copies of their respective originals.




DEPONENT
आकारा गुप्ता/AKASH GUPTA
प्रबंधक (राख प्रबंधन)
Manager (Ash Management)
एन टी पी सी लिमिटेड/NTPC LIA.
EOC, A-8A, Sector-24, Noida-201301

VERIFICATION

I, the deponent above-named, do hereby verify the contents of the above affidavit to be true to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

▲ 15 AUG 2025

Verified at New Delhi on this 5th day of August, 2025.

I identify the deponent who has
Signed / Put T.I. in my presence

[Signature]

C No. 6818

[Signature]
DEPONENT

आकाश गुप्ता/AKASH GUPTA
प्रबंधक (राख प्रबंधन)
Manager (Ash Management)
एन टी पी सी लिमिटेड/NTPC LIMITED
EOC, A-8A, Sector-24, Noida 201301



ATTESTED
[Signature]
RAJESH KUMAR SONTALIA
Advocate, Delhi (Bharat)
Notary Regn. No. 49577
Govt. of India
M. No. 9811101889

05/8/25



Proof of Service

Ishrafil Ansari <ishrafilansari9@gmail.com>

O.A. NO.327 OF 2022; AMRAVATI FLY ASH BRICKS MANUFACTURERS ASSOCIATION VERSUS UNION OF INDIA & ORS

1 message

Ishrafil Ansari <ishrafilansari9@gmail.com>

Tue, Aug 5, 2025 at 10:01 PM

To: gaurav@legalassistance.in, "kmmasgsc@gmail.com" <kmmasgsc@gmail.com>, gagicgeroge.adv42@gmail.com, "office@nazki.in" <office@nazki.in>, nazim.cpcb@nic.in, chetansharmamailbox@yahoo.co.in, "officeofsudhanshuprakash@gmail.com" <officeofsudhanshuprakash@gmail.com>, Arvind Gupta Advocate on Record Supreme Court <arvindguptaor@gmail.com>, "vikramsbaid@gmail.com" <vikramsbaid@gmail.com>, purnima krishna <purnimakrishna10@gmail.com>, nithiadvocate@yahoo.co.in, "petalchandhok@trustlegal.in" <petalchandhok@trustlegal.in>, "crosslegal12@gmail.com" <crosslegal12@gmail.com>, Ajit Sharma <sharma.ajit@gmail.com>, saurabhrajpal.sc.aor@gmail.com

Dear Sir/Madam,

Please find attached the copy of Short Response on behalf of the Respondent No.9-NTPC Ltd., in the above mentioned matter.

Kindly treat the same as sufficient service.

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With Regards

Ishrafil Ansari, Adv.
For
Sudhanshu Prakash Advocate

This is an EXTERNAL email. Exercise caution, Do not open attachment or click links unless you know the sender, as it may be harmful or misleading

**SHORT RESPONSE-R9-NTPC LTD..pdf**

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