

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 272/ 2019

SATYANARAYAN SAHNI

..... Applicant

-Versus-

State of Bihar & Ors.

..... Respondents

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STATUS REPORT ON BEHALF OF BIHAR STATE

POLLUTION CONTROL BOARD, PATNA

In compliance with the order dated 03.02.2020 passed by the Hon'ble Tribunal for furnishing further a Status Report of the action taken in the light of the "Factual & Action Taken Report" submitted earlier on 25.11.2019, the required report, accordingly, is being submitted as hereunder:-

1. That, the Hon'ble Tribunal, vide Their order dated 03.02.2020 in the instant matter directed Bihar State Pollution Control Board (hereinafter referred to as "the Board") to furnish further a Status Report of the action taken in the light of "Factual & Action Taken Report", submitted earlier.

2. That, subsequent to the deficiencies observed during inspection conducted on 06.07.2019 – 07.12.2019 by the Board of M/s. Kanti Bijlee Utpadan Nigam Limited, Kanti Unit, Muzaffarpur (hereinafter referred to as " the KBUNL"), a Proposed Direction, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981, was served upon the KBUNL on 19.12.2019, requiring the KBUNL to explain/ show cause as to why amongst other directions for compliance of different job, they should also not be imposed a suitable amount of environmental compensation.
3. That, in response to the Proposed Direction, as aforesaid, the KBUNL submitted a reply with the 'Timeline' on 31.12.2019 for the compliance of different jobs required to be performed.
4. That, after going through the facts, under reply, including the 'timeline' for the performance of the jobs, the Board realized that the time span given in the 'timeline' for performance of jobs, were long enough, and therefore, the CEO (KBUNL) was asked to hold a discussion with the Board's officials, so that rescheduling of the 'timeline', submitted by the unit, could be done.

5. That the meeting for rescheduling of the 'timeline' was convened on 28.01.2020 when the officials of the KBUNL were directed to shorten the 'timeline' proposed by the unit for various water/ air pollution control activities.

The unit was also directed during the discussion to submit an undertaking regarding shortening of the timeline for carrying out the jobs within 10 days.

Xerox copy of the Minutes of Discussion dated 28.01.2020 is being attached herewith and marked as '**Annexure - 1**', for ready reference.

6. That, the KBUNL, in response and in compliance, submitted a 'timeline' dated 30.01.2020 on 31.01.2020 in the light of the discussion held on 28.01.2020 along with an undertaking also to that effect.

The KBUNL, in the same series, submitted another 'timeline' dated 08.02.2020 received by the Board on 12.02.2020, separately for the utilization of ash.

7. That, the Board, after considering the re-scheduled 'timeline' with an undertaking vide letter dated 30.01.2020 & 08.02.2020, served upon the KBUNL, the final direction on 25.02.2020 under Section 33A of the Water (Prevention and

Control of Pollution) Act, 1974 and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981, whereunder they were directed to perform the jobs strictly by the specified time and also to furnish a Bank Guarantee of Rs. 5 Crore only within 15 days to ensure performance of works/ jobs as provided in the 'timeline'.

Xerox copy of the Direction dated 25.02.2020 is being attached herewith and marked as '**Annexure - 2**', for ready reference.

The Status Report of the action taken report, as above, in compliance with the order dated 03.02.2020, may graciously be accepted.

And for this act of kindness, the answering respondent shall ever pray.

Alok Kumar

(Alok Kumar)

Member - Secretary

**Bihar State Pollution
Control Board, Patna**

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Minutes of discussion held with officials of the Kanti Bijlee Utpadan Nigam Ltd. (KBUNL), Kanti, Muzaffarpur at 4.0 pm on 28.01.2020 in office chamber of the Member Secretary, Bihar State Pollution Control Board, Patna, on the issues of timeline proposed for compliance of Board's Proposed Direction bearing letter no.-7310 dated 19.12.2019.

The following officials of KBUNL were present in the discussion:-

1. Sri Ujjwal Banerjee, CEO (KBUNL), Muzaffarpur;
2. Sri Prashant Kumar, Addl. General Manager, EMG, KBUNL, Muzaffarpur;
and
3. Sri V. K. Pandey, Senior Manager EMG, KBUNL, Muzaffarpur.

The Hon'ble National Green Tribunal, Principal Bench, New Delhi, vide their order dated 16.04.2019 & 25.11.2019 in O.A. No. 272/2019, directed this Board to take appropriate action against pollution being caused by thermal power plant at Kanti, Muzaffarpur. In compliance with the order; an inspection was conducted on 06.12.2019 and 07.12.2019 and subsequently Proposed Direction u/s 33A of the Water Act, 1974 and u/s 31A of the Air Act, 1981 was issued to the thermal power plant. Reply was submitted by the unit vide its ref no.-KBUNL/MTPS/42706 dated 31.12.2019 in which unit has proposed time-lines for compliance of the Board's proposed direction.

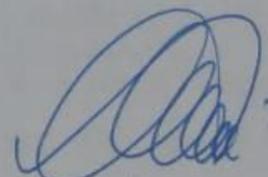
Member Secretary informed that the time-lines proposed for various water/air pollution control activities by the thermal power plant (TPP); need to be shortened. After detailed discussion, following decisions were taken:-

- (i) The unit shall submit capacity of ash ponds, quantity of pond ash lying there at, sector wise details of the ash utilization and disposal and steps taken by TPP in light of Notification No. S.O. 763 (E) dated 14th Sept. 1999 as amended to date **within 10 days**. In addition they shall also submit a note on 'how to increase utilization of fly ash';
- (ii) The unit shall complete the construction of dry ash extraction system with storage facilities (silos) by **31.03.2021** and shall submit copy of work order awarded;

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- (iii) The separation of industrial drain and storm water drain shall be completed by **31.12.2020** and copy of work order awarded shall be submitted;
- (iv) The unit shall submit detailed report regarding implementation status of rain water harvesting schemes as discussed;
- (v) The unit shall submit details of plantation done with map, showing area already planted & area available for plantation in coming rainy season **within 10 days** time;
- (vi) Construction of STP (Sewage Treatment Plant) shall be completed by **31.12.2020** and the unit shall submit copy of work order awarded;
- (vii) The construction of toe-drain/peripheral drain of pond no-3 shall be completed by **30.06.2020**. Unit's representative submitted that charging of this pond shall be stated in Feb., 2020;
- (viii) Ash pond under construction at Motipur, Dist-Muzaffarpur shall be completed by **30.09.2020**;
- (ix) Operational dyke (No.-1 & 2 for Stage-I) shall be re-constructed as per engineering design by **31.03.2021**. The unit shall submit a note regarding capacity/adequacy of ash storage system;
- (x) The installation of FGD with installation of low NOx burner shall be completed by **31.12.2020**;
- (xi) The unit submitted that construction of CHP for stage-II shall be completed by **31.12.2020**. It was directed to submit copy of work awarded within 10 days time;
- (xii) Member Secretary, BSPCB directed to keep all pollution control devices functional and to meet standards of discharges/emissions as prescribed by the Board; and
- (xiii) The unit shall submit an undertaking regarding above mentioned time-lines **within 10 days**.

The discussion ended with thanks to the officials of KBUNL.


(Alok Kumar)
Member Secretary



Ref. No.:-

Patna, dated:-

From

Dr. Ashok Kumar Ghosh,
Chairman.

To

Sri Ujjwal Banerjee
C.E.O. (KBUNL)
M/s. Kanti Bijlee Utpadan Nigam Limited,
At - Kanti, P.O. - Kanti Thermal,
District- Munger - 843130

- Ref** [i] Proposed Direction issued by the Board vide letter no.-7310, dated 19.12.2019 ;
[ii] Your reply vide letter no.-KBUNL/MTPS/42706 dated 31.12.2019 ;
[iii] Minutes of discussion held on 28.01.2020 ; **and**
[iv] Timeline proposed for compliance of Board's direction bearing letter no.-7310 dated-19.12.2019 vide ref. no.- KBUNL/MTPS/42986 dated-30.01.2020.

DIRECTION UNDER SECTION 33A OF THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974 AND SECTION 31A OF THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981.

1. **WHEREAS**, you were granted "Consent-to-Operate" (hereinafter referred to as "CTO") from Bihar State Pollution Control Board (hereinafter referred to as 'Board') under section 25/26 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as 'Water Act') for Stage - I & II of your thermal power plant, vide this Board's letter nos. 4116, dated 03.12.2018; and 3192, dated 01.10.2018, respectively, subject to certain conditions for the period upto 31.03.2023.

Likewise, you were also granted "Consent-to-Operate" from Bihar State Pollution Control Board under section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as 'Air Act') for Stage - I & II of your thermal power plant, vide this Board's letter nos. 4115, dated 03.12.2018; and 3191, dated 01.10.2018, respectively, subject to certain conditions for the period upto 31.03.2023.

2. **WHEREAS**, the Hon'ble National Green Tribunal, Principal Bench, New Delhi was in receipt of an application against pollution being caused by fly-ash dump set-up by thermal power plant, Kanti, allegedly causing damage to the public health, animal health and ecology in the area.
3. **WHEREAS**, the Hon'ble Tribunal, vide Their order dated 16.04.2019 in O.A. No. 272/2019, directed this Board as well as the District Magistrate, Muzaffarpur to take appropriate action in accordance with law.
4. **WHEREAS**, this Board, accompanied by the representative of the District Magistrate, Muzaffarpur, accordingly, in compliance with the orders dated 16.04.2019 & 25.11.2019 passed by the Hon'ble Tribunal, conducted an inspection of thermal power plant and ash-ponds located adjacent to the Kothiya village, Block - Kanti on 06.12.2019 and 07.12.2019.
5. **WHEREAS**, during inspection, amongst local villagers; officers of the plant and the applicant/ complainant, Sri Satyanarayan Sahni, were also present. After detailed inspection, following observations were made:-
 - (i) Adequate facility for the maintenance of ash-ponds was not provided, as only one water sprinkling vehicle was seen sprinkling water in insufficient manner ;
 - (ii) Ash-slurry was found dumped outside the ash-pond and was left to dry ;
 - (iii) Facility for the management of the seepage water from ash-pond was not developed;
 - (iv) There was no peripheral drain around the ash-pond to save from breaches ;
 - (v) There was no separate storm water and industrial waste water drain ;
 - (vi) There have been cases of breach earlier ; and
 - (vii) There was lack of security arrangement for the ash-ponds like fencing, lighting, guards, etc. to safeguard the ash-ponds from any tampering and any unforeseen mis-happening.
6. **WHEREAS**, in addition to the observations made during inspection, as above, the compliance status of environmental clearance conditions have also been noted as hereunder:-

- (i) Ash Utilization (Stage - I & II) Plan had been prepared in compliance with MOEF & CC Gazette notification and submitted to the concerned office as reported. But ash is not utilized fully.
- (ii) Fly ash collection in dry form and storage facility (silos) had not been provided till date.
- (iii) Industrial drain and Storm water drain were not separated as such no compliance on that count was seen as required under the required condition, no STP was provided and the treated sewage was yet to be used for raising green belt / plantation.
- (iv) Rain water harvesting was not adopted as required.
- (v) The green belt in and around the unit premises was being developed, but it had not been developed around the ash-pond.
- (vi) As required as one of the conditions of Discharge - Consent - Order (CTO), Sewage Treatment Plant has not been installed till date.

7. **WHEREAS**, from the observations, as detailed above, it would simply go to show that the conditions, subject to which Discharge - Consent - Order (CTO) and Emission - Consent - Order (CTO) under the said Acts were granted, were not complied with in the true spirit.
8. **WHEREAS**, this Board served upon you a proposed direction u/s 31A of the Air Act, 1981 and u/s 33A of the Water Act, 1974, proposing the following Directions:
- [i]. To ensure regular sprinkling of water on peripheral road upon which heavy vehicles ply ;
 - [ii]. To ensure transportation of fly-ash/ soil by covered vehicle ;
 - [iii]. To ensure fencing, lighting and adequate security around the ash-pond/ dyke ;
 - [iv]. To ensure test of ground water and water of hand-pumps of Kothiya village area for heavy metals from some government organization (accredited lab) ;
 - [v]. To ensure construction of toe-drain and peripheral drain around ash-pond/dyke to stop seepage of water into framers' field and also to ensure that there is no breach of ash-pond/dyke in the rainy season ;
 - [vi]. To ensure green belt around the peripheral drain by plantation wherever space is available ;

- (vi) To ensure adequate maintenance of 'discharge pipeline rotation', so that discharge - pipeline in the ash-water recirculation system could remain leakage proof;
- (vii) To ensure compliance of the conditions imposed in the environmental clearance/ CTO and directions given by the Central Pollution Control Board and State Pollution Control Board;
- (viii) To ensure submission of a Time Schedule within which the aforesaid directions shall be complied with; and
- (ix) To explain why a suitable amount of environmental compensation, as indicated above, should not be imposed upon you.

9. **WHEREAS**, your reply against the proposed direction/show cause notice of the Board, was received on 31.12.2019 and after considering your response in the matter, under reference, it was felt that a discussion on the issues regarding rescheduling of the timeline, was required.
10. **WHEREAS**, accordingly, a meeting was convened with you and your officials on 28.01.2020 and during discussion, it was decided and directed for submission of a fresh timeline for the compliance of the Board's directions within lesser time.
11. **WHEREAS**, in response to the discussion, under reference, you submitted a rescheduled timeline with an undertaking vide letter dated 30.01.2020 & 08.02.2020.
12. **WHEREAS**, it may also be worth mention that few of the important compliances required by the Central Government's notifications; conditions imposed in the CTO by the Board; conditions imposed under environmental clearance; and different directions issued by the Board in the past, were seldom complied with due to which you fail to inspire and evoke confidence of the Board with regard to future compliances. Few of such compliances being Environmental Conditions (issued vide letter dated 09.11.2009 by MoEF & CC), where you failed are :

- [i]. Utilization of fly ash from coal or lignite based thermal power plant by the target date, vide notification no. S.O. 763(E) dated 14th September, 1999;
- [ii]. Separation of industrial drain and storm water drain;
- [iii]. Rain water harvesting;
- [iv]. Construction of Sewage Treatment Plant;
- [v]. Construction of dry ash extraction system with storage facility (silos);
- [vi]. Construction of Coal Handling Plant (CHP) for Stage - II; **and**
- [vii]. Construction of the ash pond lined with HDP/LDP or any other suitable impermeable lining. Adequate safety measures shall also be implemented to protect the ash dyke from getting breached.

I, therefore, in exercise of the powers conferred by section 33A of the Water Act, 1974 and section 31A of the Air Act, 1981, **direct you to:**

- [a]. Carry out the performances of the jobs enumerated in the time schedule with undertaking submitted to the Board vide letter dated 30.01.2020;
- [b]. Achieve 100% ash utilization in 2020-21 as per plan submitted vide letter no. KBUNL/MTPS/43028, dated 08.02.2020 in compliance of Notification dated 14.09.1999 of MoEF & CC for Utilization of Fly-ash from Coal or Lignite Based Thermal Power Plants ;
- [c]. Complete the work of separation of process drain and storm water drain by 31.12.2020 ;
- [d]. Make effort for installation of FGD and low NOx burner in both Stage - I & II units by 31.12.2020 and complete the work latest by 30.06.2021;
- [e]. Ensure regular and adequate sprinkling of water on peripheral road of ash-dyke upon which heavy vehicles ply by the end of 31.03.2020 ;
- [f]. Ensure transportation of fly-ash/ soil by covered vehicle with immediate effect;
- [g]. Ensure fencing, lighting and adequate security around the ash-pond/ dyke by the end of 30.06.2020 ;
- [h]. Ensure construction of toe-drain and peripheral drain around ash-pond/ dyke to stop seepage of water into farmer's field and also to ensure that there is no breach of ash-pond/dyke in the rainy season by 30.06.2020 ;
- [i]. Ensure green belt around the peripheral drain of ash-dyke as well as inside and around the plant, wherever space is available by 31.03.2021;

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- ☐ Ensure compliance of the conditions imposed in the environmental clearance/ CTO and directions given by the Central Pollution Control Board and State Pollution Control Board ; *and*
- ☐ **Furnish a bank guarantee of Rs. 5 Crore (Rupees Five Crore) only, within 15 days**, to ensure performance of works/ jobs as enumerated above as well as in your timelines, submitted to the Board vide letter nos. KBUNL/MITPS/42986 dated 30.01.2020 and KBUNL/MITPS/43028, dated 08.02.2020;

AND

IN DEFAULT THEREOF, the undersigned will have no option but to take appropriate remedial action under the concerned provisions of law.

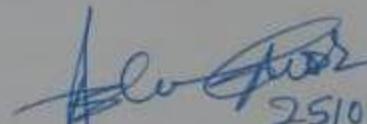
Sd/-
(Ashok Kumar Ghosh)
Chairman

Patna, Dated... 25.2.2020

Memo No. 13/3.....

Copy to:

- ☐ The R.O., BSPCB, Muzaffarpur for information and necessary action.
- ☐ The Legal Cell, Patna for records.


25/02/20
(Ashok Kumar Ghosh)
Chairman
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