

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

M.A. No. 201 of 2014 & M.A. No. 202 of 2014

In

Original Application No. 276 of 2013

Ashwani Kumar Dubey Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER
HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER

Present:

Applicant: Mr. M.Z. Chaudhary, Adv., Mr. Avinash Prasad, Adv. and Mr. Ashwani K. Dubey, Applicant in person

Respondent No. 1: Mr. Vikas Malhotra, Adv. And Mr. M.P. Sahay, Advocate.

Respondent Nos.3,5,8: Mr. Anshuman Shrivastava and Mr. C.D. Singh, Advocates.

Respondent Nos. 6&9: Ms. Savitri Pandey, Adv.

Respondent Nos. 7: Mr. Daleep Kr. Dhyani, Advocate

Respondent No.13, 15,16&21: Mr. Syed Shahid,Adv.

Respondent Nos.14: Mr. Pinaki Mishra, Sr. Adv., Mr. Rishi Agrawala, Adv. and Ms. Neeha Nagpal, Adv.

Respondent Nos. 17: Mr. Shashank Manish, Advocate

Respondent No.19&20: Mr. Pradeep Misra, Advocate

Respondent No.24: Mr. Nand Kishore Kumar, Advocate.

Date and Remarks	Orders of the Tribunal
Item No. 3 April 24, 2014	<p><u>M. A. No. 202 of 2014</u></p> <p>This is an Application praying for exemption from filing the English translation of document at Annexure-A-3 due to shortage of time. Subject to just exception the Application is allowed. True translation of documents may be filed in due course.</p> <p>The Application stands disposed of accordingly.</p> <p><u>M. A. No. 201 of 2014</u></p> <p>Notice. Learned Counsel appearing for the Respondent No. 14 and Ministry of Environment and Forests accept notice.</p> <p>The Learned Counsel appearing for the Madhya Pradesh Pollution Control Board is not present. It is unquestionable that the issue raised in present Application is of a very serious of consequence. The Learned Counsel appearing for Applicant claims that the fly ash has been spread all over the Village and has spoiled the agriculture fields and it is lying in the open and causing air pollution. It is further contended that because of ensuing summer the content of fly ash in the</p>

air would very adversely affect the human health.

Still further it is contended that the Pollution Control Board of Madhya Pradesh had-vide its order dated 13th January, 2014, stopped the operation of the Respondent No. 14 but in violation of the said order they continue to carry on their operations.

Learned Counsel appearing for the Project Proponent has stated that it is a serious matter which requires the attention of all concerned. However, it is contended on their behalf that the order of the Board dated 13th January, 2014 was vacated vide order of the MP PCB dated 17th February, 2014, and they were called upon to furnish Bank Guarantee of Rs. 50.00 Lacs as well as to furnish time bound action plan in order to take all measures to prevent pollution as a result of spreading of fly ash.

We may notice here that even as per the letter dated 17th February, 2014 the Project Proponent has failed to comply with its obligation and take appropriate anti pollution measures as is obvious from the reading of very opening paragraph of the letter dated 17th February, 2014. However, the fact in the matter still remains that the unit has been permitted by the PCB to carry on its operations vide order dated 17th February, 2014.

In the circumstances aforerecorded we grant one weeks time to the Project Proponent and other Learned Counsel appearing in this case to file Reply to this Application with advance copy to the Learned Counsel appearing for the Applicant who may, if he so wishes, would file Rejoinder within three days thereafter. We direct that leave to operate granted to Respondent No. 14 (M/s. Essar Power Ltd. shall further be subject to the condition even for this limited period that all the fly ash from the agriculture fields and nearby the Village shall be removed without any further delay by them as well as they shall also ensure proper storage of fly ash with covering of polythene and other measures so as to prevent spreading of fly ash polluting the area in question.

If these work are not carried out immediately and

the condition imposed is not complied with the MPPCB shall stop the operation of the industry.

We further direct the MPPCB to whom the Applicant has served Dasti Notice that they should bring before us the latest Inspection Report along with Analysis Report as well as the Action Plan submitted to the Board by the Project Proponent and the details of the steps taken by the Respondent No. 14 in furtherance thereto. We direct the Regional Officer, MPPCB to be present before the Tribunal with complete records.

List the matter for hearing on 7th May, 2014.

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(B.S. Sajwan)

.....,EM
(Dr. R.C. Trivedi)

