

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.138/2023/EZ
(Earlier O.A. No.181/2022/PB)

Dinesh Prasad Chaurasia & Ors.

Applicant(s)

Versus

State of Bihar & Ors.

Respondent(s)

Date of hearing: 12.04.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : None

For Respondent(s) : Mr. Adarsh Tripathi, Adv. for NTPC (in Virtual Mode)
Ms. Amrita Pandey, Adv. for Bihar SPCB, (in Virtual Mode)

ORDER

1. Case called out. No one is present on behalf of the applicant.
2. The Applicant, who is a resident of Village-Narsanda, P.O.-Kanti, District-Muzaffarnagar, Bihar, has moved an application through his e-mail dated 26.03.2024 requesting that he may be provided a Counsel.
3. This Tribunal has no financial resources to provide a Counsel to the Applicant unless the Applicant presents himself in the Court in person and makes a selection of his Counsel. Even if the Tribunal appoints an amicus in the case, the Applicant has to be present in person to give his consent to the amicus curiae and to brief him.
4. We have heard Mr. Adarsh Tripathi, learned Counsel appearing (in Virtual Mode) for NTPC Ltd. and Ms. Amrita Pandey, learned Counsel appearing (in Virtual Mode) for Bihar State Pollution Control Board and after hearing the learned Counsel for the parties

and having gone through the affidavits on record, we are of the view that a fresh Inspection Report is required to be filed by the Bihar State Pollution Control Board with regard to the compliances stated to have been carried out by the NTPC Ltd. in their affidavits, particularly with reference to the findings recorded by the Joint Committee in its Report filed with the response of the Bihar State Pollution Control Board dated 02.01.2023.

5. In the previous Inspection Report filed with the response of the Bihar State Pollution Control Board dated 02.01.2023, it is mentioned that the District Agriculture Officer, Muzaffarpur, has reported that due to thick layer of fly ash over leaves, the photosynthesis as well as transpiration capacity of plants might have been adversely affected but the District Agriculture Officer, Muzaffarpur, has not submitted any conclusive scientific or factual report regarding the same. Similarly, with regard to the Assistant Director of Horticulture, Muzaffarpur, it has been mentioned that he has not conclusively reported any damage to the productivity of horticultural crops in the agricultural lands under reference.
6. Question is if there is no report with regard to the damage caused to the crops, does not mean that there is no damage to the crops, and there ought to have been a categorical finding as to whether there was damage or there was no damage.
7. We find that Bihar State Pollution Control Board has been extremely lackadaisical in its approach to filing of the Inspection Report. It was a duty of the State Pollution Control Board to have sought specific queries from the Assistant Director of Horticulture, Muzaffarpur, or the District Agriculture Officer, Muzaffarpur, with

regard to the damage, if any, and the extent of damage, if any, in monetary terms.

8. We, therefore, direct the Committee constituted by this Tribunal vide order dated 19.04.2022 to re-visit the site in question and file a fresh Inspection Report, particularly with regard to the violations, if any, by the NTPC Ltd. of the Fly Ash Utilization Notification, 2016/2021.
9. Let the affidavit be filed within four weeks.
10. We are informed that an officer of the NTPC Ltd. has been deputed to sit during the Court proceedings to assist the court. We have not directed any officer of the NTPC to be present in Court on each date, therefore, presence of the officer concerned is dispensed with for future unless specifically required and directed by the Court.
11. **List on 27.05.2024.**

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

April 12, 2024,
Original Application No.138/2023/EZ
(Earlier O.A. No.181/2022/PB)
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