

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,**  
**BHOPAL**

**Original Application No. 124/2014 (CZ)**  
**Ajay Dubey Vs. State of Chhattisgarh & Ors.**

and

**Original Application No. 122/2015 (CZ)**  
**Anhad Mishra Vs. Union of India & Ors.**

and

**Original Application No. 95/2015**  
**Laxmi Chouhan Vs. Union of India & 7 Ors.**

and

**Original Application No. 36/2015 (CZ)**  
**Laxmi Chouhan vs. Union of India & 5 Ors.**

and

**Appeal No. 42/2015 (CZ)**  
**Chhattisgarh State Power Generation Co. Ltd. Vs. CG Environment Conservation Board & Ors.**

and

**Original Application No. 29/2015 (CZ)**  
**Titksha Social Organisation Vs. Union of India & 5 Ors.**

**CORAM :** **HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER**  
**HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

**PRESENT :** **Applicant in O.A. No. 42/2015 :** **Shri Apoorva Kurup, Adv. with**  
**Shri Ayush Dev Bajpai, Adv. for**  
**Shri Shantanoo Saxena, Adv.**  
**Respondent CECB :** **Ms. Parul Bhadoria, Advocate for**  
**Shri Purushaindra Kaurav, Advocate**  
**NTPC:** **Shri Sachin K.Verma, Advocate**  
**Respondent SECL:** **Shri Yogesh Bhatnagar, Advocate`**  
**State of Chattisgarh :** **Shri Rohit Sharma, Advocate for**  
**Shri Siddhartha Chauhan, Adv**  
**Respondent No. 2, 4 & 5:** **Shri Deepesh Joshi, Adv.**  
**CSPGCL :** **Shri Apoorv Kumar, Adv. with**  
**Shri Ayush D. Bajpai, Adv. for**  
**Shri Shantanoo Saxena, Adv.**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 04 to 09</b> <b>4<sup>th</sup> July, 2016</b>	These Applications primarily pertain to the compliance been made in terms of the notification issued by the MoEF, Government of India dated 03.11.2009 as amended now in 2016 during the pendency of the Application for utilisation of fly ash. The Applications particularly pertain to the power plants set up in the State of Chhattisgarh where total number of such plants is reported to be more than 50 and also in close proximity of each other. The problem arising out of generation of fly ash was considered by the MoEF, Government of India right from the year 1991, when the first notification for mandatory (utilisation) of fly ash was issued. The notification was subsequently revised in 2003 and again in 2009 and the last revision / amendment having been made

in 2016. Since the 1990s the number of such thermal power plants has increased manifold with the demand for electricity increasing in the domestic industrial and agricultural sector. Fly ash generation is the obvious fall out in the thermal power plants. While granting ECs various measures for containing and disposal of fly ash are provided but it has been felt that the capacity to hold the quantity of fly ash generated in the ash ponds has been surpassed virtually in all the thermal power plants. To overcome this problem the Government of India issued the notifications for utilisation of fly ash by various sectors. At the same time, with the growth in the infrastructure the demand in the construction industry for cement etc. came as some relief as the cement industry utilised the fly ash being generated by the thermal power plants considerably. Though, the notification required providing free of cost fly ash up to a particular distance to the consumer or utiliser or to the agency utilising the fly ash. However, awareness in the matter has increased and the utilisation of fly ash by the consumers has also increased. At the same time large number of coal base thermal power plants have been set up in close proximity in areas where coal is available. As a result the problem of utilisation and disposal of fly ash has also increased manifold since not enough consumers were available within the distance of the radius fixed under the earlier notifications. Realising this the Government of India has revised the distance in the present notification of 2016 to 300 kms. making it mandatory for the scheduled industries as mentioned in the notification to utilise of fly ash. Under the said notification and even apart from the same we have been informed that fly ash has been utilised in the following industries mainly: (1) cement works (2) fly ash brick manufactures along with caving blocks (3) in the construction industry. It has been made mandatory for State and Central Government agencies along with Government undertakings to utilise such fly ash brick and blocks in the construction. Apart from the above wherever highways are being

constructed fly ash can safely be utilised for earth works in place of the earth being excavated for the said purpose. Also wherever railway tracks are being constructed or new lines laid down in such ongoing works or proposed works also fly ash could be utilised. At the same time, the notification also provided for utilisation of fly ash in the abandoned quarries and mines where closure operations are required to be carried out. From the above it is clear that in accordance with the notification issued by the MoEF Government of India all stakeholders and the agencies which are the industries, departments of the State and the Central Government which have been enumerated in para 4 (2B) of the notification including the CPWD and the PWD need to make a concerted effort.

In view of the above, the State Government shall prepare a report indicating the areas where such fly ash is being generated and also the areas where the same can be utilised. The respective departments of the Central and the State Governments and the Mines Department need to work out for their ongoing projects, the possible requirement of fly ash and the nearest point where it can be made available by the respective generation units. Even if some of the consumer units lie outside the State but in the close proximity that is within the radius of 300 kms. as provided under the notification of 2016 and wherever generation of fly ash is more and could be possibly utilised even beyond 300 kms. radius such areas may also be identified. This task of compilation of the report shall be completed within a period of one month. The respective State and Central Government in case they have so far in their own ongoing works contracts not complied with the mandate of the notification issued by the MoEF for utilisation of fly ash / fly ash bricks and blocks in the construction shall forthwith amend their contracts with the contractors making it mandatory to comply with the notification of 2009 / 2016. Copy of this order shall be sent to the Regional office of the MoEF for obtaining the necessary information and submitting the same in respect

of all works been carried out by the Government of India / Central Government undertakings and departments including Indian Railways. The RO of MoEF shall also submit areas primarily of SECL and coal India as well as western coal fields where such fly ash can be utilised for the purposes of back-filling as indicated in the notification on 2009 / 2016. In case the same is already being undertaken the said information shall also be provided to the Tribunal.

Copy of this order shall also be sent to the NHAI. The Chief Secretary of the State shall be responsible for coordination and collection of the aforesaid information and submitting the same before this Tribunal.

Let these matters be listed on **10<sup>th</sup> August, 2016.**

.....JM  
(DALIP SINGH)

.....EM  
(DR. S.S.GARBYAL)

