

Item No. 04

(Court No.01)

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

(By Video Conferencing)

Original Application No. 364/2021

(With report dated 28.01.2022)

Santosh Ram & Ors.

Applicant(s)

Versus

State of Madhya Pradesh

Respondent

Date of hearing: 10.03.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Respondent: Ms. Anuradha Mishra, Advocate for MPPCB
Mr. Venkatesh, Advocate for Moser Baer Power Project

ORDER

1. Grievance in this application is against unscientific discharge of fly ash slurry in Khirna storm water drain, Anupur District, M.P by Moser Baer power project (now Anupur Thermal Power Project), adversely affecting the environment and public health.

2. Considering the above, the Tribunal sought a factual report from a joint Committee comprising CPCB, State PCB and District Magistrate, Anupur with regard to status of discharge of fly ash slurry in Khirna storm water drain. A report has been filed by the joint Committee through the State PCB giving the status of ash dyke/pond as follows:-

“Present Status of Ash Dyke/ Pond:-

There is a one ash dyke which covers approx. 50 acre area in plant premises which has age of 6 years. It also divided into two parts; **Lagoon 1 & Lagoon 2. Lagoon 1 is completely filled is approx. 12 lakh MT fly ash and capping work is going on for the final closing of the ash dyke. Lagoon 2 which has capacity to contain fly ash approx. 4.5 lakhs MT and presently is filled up about approx. 3 lakhs MT fly ash and 1.5 lakhs MT is remaining is reserved for the handling in emergency situation. The unit is also filling ash in many identified low lying area since last one year.** Copies of permission of MPPCB are attached at Annexure-IV. The industry has also taken permission from MPPCB to dispose about 1 lakh tonnes of fly ash through ash mound, which can be done in future. Copy of ash mound permission from MPPCB is attached at Annex.-V. The unit has also completed safety Audit of ash dyke by IIT, Delhi on June-2021. The safety assessment of Ash Dyke certificate as enclosed at Annexure-VI.

Fly ash Utilization/disposal (2021-22 till date provided by the Unit)

S. No.	Mode of Utilization	Quantity In MT
01	Brick Manufacturing	9675.00
02	Cement Industries	556884.78
03	Low Lying area filling	1022361.42
04	Other utilisation/ Roof sheet manufacturing	45.00

The Industry has provided an action plan for fly ash utilization for next three years at **Annexure-VII.**

Joint Inspection as per the Hon'ble NGT Order (Date-17.01.2022)

To find out facts as well as present actual status of the complaint mention in NGT order.

About The Khirna Nalla:-

The Khirna nalla origins from the Khirna tola, Laharpur village situated in Anuppur district and passing through plant premises adjoining nearby villages i.e. Amgawan, Chulha, Senduri, finally meet to river Sone. It is a seasonal nalla and during visit the **joint team** has observed lean flow prevailing in this nalla. The industry regularly monitors the water quality of khirna nalla as well as Son river at upstream and downstream through MPPCB and certified laboratory. Copies of analysis reports are attached at **Annexure-VIII.**

1. The team has taken the water and sludge/ sediments samples of nalla water before the entering of plant premises at near ITI, Small Bridge Jaithari (Upstream) for the purposes to know the actual water quality of the nalla. The team has

observed water was clear, colour less and having very lean flow.

2. The team has also taken the water and sludge/ sediments samples of nalla water inside in the plant premises at near ash dyke area. The team has observed the nalla water was clear, colour less and having lean flow and also found presence of aquatic life.
3. The team has also taken the water and sludge/ sediments sample of nalla from near Senduri village small bridge (l/S) from the plant which is approx. 05 Km from the plant. At this point the water was clear, colour less, odour less and now was observed. There is no visual evidence found of fly ash disposal in nalla. Aquatic fish was also seen in the nalla water.
4. The team has also taken the water and sludge/sedimentation samples from the atler confluence of the River Sone Nalla with Khirna Nalla (100 meter D/S). The water was clear, colour less, odour less and flow was observed. Water Quality of River Sone was also clear, colour less and flow was observed. There was no evidence of fly ash contamination visualized by the joint committee in Sone River.

The details of water and sludge/sedimentation sampling as given below Table:-

S.No.	Sampling Location	Latitude	Longitude
1.	<i>Khirna Nalla U/s at near ITI Jaithari</i>	23.055678	81.792709
2.	<i>Khirna Nalla Inside the plant premises near Ash dyke area</i>	23.072174	81.784398
3.	<i>Khirna nalla D/s at near Senduri Village</i>	23.114779	81.751231
4.	<i>After Confluence of Khirna Nalla at 100m D/s of River Sone.</i>	23.128436	81.751475
<i>Note: The analysis results of samples are awaited from lab.</i>			

Main Observations During The Joint Inspection:-

1. The team has visited and observed the present status of the Khirna Nalla, there was no accumulation found of fly ash at the bank of nalla. Water quality observed clear, colourless, & odourless and not found turbid due to fly ash contamination. Presence of flora, faunas are also observed.
2. The team has inspected Khirna nalla about 7-8 KM at different locations after downstream of the plant as well as along the periphery of the plant. There was no visual evidence found due to contamination of fly ash in water quality of Khirna nalla and River Sone. Heaps of fly ash are also not seen at the bank of nalla and

Sone river. Joint committee has observed the Khirna nalla very closely near village Jaithari, near duck area and near ash pond area (near Guwari village), at village Senduri.

3. Joint Committee has also travelled along the nalla from upstream (Before entering the plant) to downstream up to confluence point of khirna nalla with Sone river and found no visual appearance change in before and after confluence of Khirna nalla in river sone in term of water quality.
4. The joint team has also visited the generated fly ash handling area of the plant i.e. ash silo as well as Hydrobin system and found no spillage of ash. The generated dry fly ash collecting in Will silos and loading in bulkers through dry ash loading system and found no fugitive emission during ash handling. The wet bottom ash also loaded from Hydrobin to Hywa for filling in low lying area. **The quantity which was balanced after sending to Cement industry also converts into moist condition and transported through hywa for filling in low lying area.**
5. At the site of ash handling area there are two mistgun was operating to control the fugitive dust emission and water spraying through water tanker are also used there.
6. The team has also found one storm water drain to meet khirna nalla in the plant premises but at the time of inspection the drain was dry and no evidence found of fly ash discharge in to Khirna nalla and also no evidence is found to destroying Khirna nalla by MB Power (Madhya Pradesh) Ltd.
7. During the document inspection the industry complying the 100% fly ash utilization since last 4 years a copy of summary sheet attached at Annexure- IX. The year wise ash generation and utilization is given below in table.

Year	Generation in MT	Utilization in MT	% Utilization
2018-19	15778755.30	1635958.00	103.68
2019-20	1552755.00	1598765.00	102.96
2020-21	1540515.00	1751585.64	113.70
2021-22	1580890.23	1588966.20	100.51

At SDM Office, Jaithari Joint committee also interacted with complainer Sh. Shantosh ram Rathour, Sh. Rohani Prasad Rathour, Sh. Sugreev Jaiswal which are residence of Village Guwari Jaithari. On their request committee has seen the so called affected area accordingly to them but not found concrete evidence of fly ash discharge there.”

3. From the report, it appears that huge quantity of fly ash is generated which is filled in lagoons and in low lying areas and also

otherwise disposed of. Photographs annexed to the report give a view of the drain in question and also of the low lying areas. It is not clear what safeguards are employed in filling of the ash in the low-lying area. It is also not clear whether the quantity dumped is within the limit of permission. There appears to be anomaly that on the one hand the report appears to suggest that there is more than 100% utilization in which case there is no question of dumping of ash in low lying area and permission being granted for the purpose. This aspect needs to be clarified.

4. Further, it is not clear whether consent conditions are being complied. The consent order on renewal application dated 14.04.2021 particularly requires as follows:-

“26. Ash pond can be lined with HDPE/LDPE lining or any other suitable impermeable media such that no leachate take place at any point of time. Ash pond water shall be re-circulated and utilized in the process or other beneficial purposes in the plant.”

5. The report also annexes an order of consent dated 30.05.2020 and other permissions for different locations, including order dated 09.09.2021 issued by the State PCB laying down certain conditions for filling the fly ash in low lying area. The status of compliance of such conditions needs to be ascertained.

6. Accordingly, we constitute a joint Committee of Regional Officer, MoEF&CC and Regional Officer, CPCB, Bhopal to verify the above aspects and furnish a further report within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

List for further consideration on 23.05.2022.

A copy of this order be forwarded to Regional Officer, MoEF&CC and Regional Officer, CPCB, Bhopal by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

Dr. Vijay Kulkarni, EM

March 10, 2022
Original Application No. 364/2021
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