

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

Original Application No. 602/2023
(IA No. 58/2024)

Sardar Satnam Singh & Ors.

Applicant(s)

Versus

State of Uttar Pradesh

Respondent

Date of hearing: 15.04.2024

**CORAM: HON’BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON’BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON’BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON’BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Respondent: Mr. Pankaj Kumar & Ms. Yogya Sharma, Advs. for CPCB
Mr. Himanshu Bhushan, Adv. for MoEF & CC (Through VC)
Mr. Alok Agarwal, Mr. Sanjeev Kumar Singh, Mr. Mayank Bhugnani &
Mr. Shighra Kumar, Advs. for R - 7

ORDER

1. In this Original Application, registered on the basis of the letter petition, grievance has been raised against respondent-Project Proponent namely Bajaj Energy Private Limited relating to causing pollution by throwing the fly ash at the side of Sharda Canal, not creating collection pond near the power plant for collecting the fly ash and making no provision for the greenery. The Tribunal by order dated 23.11.2023 had impleaded the concerned parties as also the Project Proponent as respondent no. 7 and had also issued notice to them.

2. In terms of the direction of the Tribunal, the report on behalf of the CPCB has been filed. In paragraph 26 and 29, the status of the dumping of fly ash and utilization is disclosed as under:-

- “26. Bottom ash and fly ash are being utilize up to 99.2 % (as per format III submitted by unit to Ministry of Power). The detail of ash utilization provided by unit is attached as **Annexure-XII**.
29. During the visit to the temporary storage site, it was found that dumping of ash in temporary storage site was carried out mechanically in moist condition.”

3. The report also annexes Annexure-15, the undertaking of the Project Proponent dated 29.01.2024 about lifting of the fly ash to be completed by March, 2024. There is no material on record that in term of the said undertaking, the fly ash has been lifted and cleared from the spot.

4. Para 14 of the report states:-

- “14. A storm water drain flows in front of the unit gate containing wastewater from urban area. The drain ultimately meets to R. Khannot.”

5. In respect of the samples collected from storm water drain, meeting to river Khannot and its analysis report, the parameters taken into account are disclosed to be as under:-

- “16. The above analysis result of different relevant parameter indicates that their values are in accordance with the prescribed General Standard for discharge in Inland Surface Water as per the E(P)A, 1986, Schedule-VI, no abnormalities were recorded.”

6. It needs to be clarified as to how the prescribed general standard for discharge in Inland Surface Water in terms of E(P)A, 1986, Schedule-VI has been applied to ascertain the abnormalities. We also find that the report records that the unit does not have CTO under the relevant enactment to operate both temporary storage site for storage of ash and the report of the CPCB in this regard is as under:-

- “32. The unit does not have Consent to Operate (CTO) under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 form State

Pollution Control Board to operate the both temporary storage sites for storage of ash.”

7. The report of CPCB also states that the unit has not complied with the condition of CTE and the findings of the CPCB in this regard are as under:-

“The unit has obtained Consent to Establish (CTE) but does not comply with conditions (green belt development, boundary wall/wind braking wall, leachate proof surface area etc.) laid down in the CTE issued by State Pollution Control Board.”

8. The EC conditions in respect of fly ash management and setting up of green belt is as under:-

“13. Fly ash management shall be done as per fly ash notification of Govt. of India.

14. Appropriate safeguard measures to guard against fire hazards shall be undertaken.

15. A green belt of adequate width and density shall be developed around the plant periphery covering at least 33% of the project area.”

9. Hence, the Project Proponent is required to place on record the status of compliance of all the EC conditions specially the conditions relating to management of fly ash and development of green belt. The CPCB is required to clarify the anomalies which have been observed in the earlier part of this order, by filing a fresh report. Let the same be filed within a period of four weeks by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

10. The UPPCB is also directed to file the report at least one week before the next date of hearing by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

11. Let the copy of this order be forwarded to Member Secretary,
UPPCB.

12. List on 24.07.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Afroz Ahmad, EM

April 15, 2024
Original Application No. 602/2023
(IA No. 58/2024)
SN