

Item No. 03

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)

**Original Application No.127/2023(CZ)
(O.A.No.552/2023 - PB)**

Draupadi Bai

Applicant(s)

Vs

State of Chhattisgarh & Ors

Respondent(s)

Date of Hearing: 08.08.2024

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. A SENTHIL VEL, EXPERT MEMBER**

For Applicant(s): None

For Respondent(s): Mr. Raunak Jain, Adv.
 Ms. Parul Bhadoria, Adv.

ORDER

1. This original application was registered on the basis of a letter dated 04.06.2023 sent by Applicant with the allegation that Rukmani Power Plant is running at Village Ranisagar/Kunkuni, District Raigarh, Chhattisgarh for quite some time which is a bio-mass based plant and is illegally using the coal and ash is being thrown haphazardly in the agricultural fields.
2. It is further contended that power plant is using 270 MT coal per day and it stops ESP (electrostatic precipitator) at night, as a result of which huge quantity of PM₁₀ and PM_{2.5} particulate matters spread in the nearby villages and forest. Plant is using ground water in huge quantity (700 cubic meter per day) without permission of water resources department. The smoke emitting from the plant is affecting

the wildlife and biodiversity. The plant is releasing the effluents in the nearby agricultural fields, affecting the fertility and till now the plant has not taken any corporate social responsibility (CSR) in respect of the villages from where the land has been acquired. The road is used by the heavy vehicles going to the plant and is damaged completely.

3. The matter was taken up by this Tribunal on 25.09.2023 and a Joint Committee was constituted to submit the factual and action taken report. In compliance thereof, the Joint Committee visited the site and submitted the report as follows :

“An inspection of the industry i.e. M/s Rukmani Power and Steel Pvt. Ltd., Village-Kunkuni, Ranisagar, Tehsil-Kharsia, District-Raigarh was carried out by the committee members on 10/02/2024. Following observations has been made during inspection :

1. Industry is a Biomass/Rice Husk based power plant of capacity 10 MW.
2. Industry has land allocation of 33.327 ha. from Chhattisgarh State Industrial Development Corporation vide letter dated 13/07/2004 for establishment of biomass based power plant and purchased 7.27 ha. of private land.
3. Industry has obtained consent under sections of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 vide letter dated 20/10/2006 from Chhattisgarh Environment Conservation Board and renewal of the same has been obtained on 10/02/2023 which is valid till 30/11/2024.
4. As per the consent conditions of the Board, industry has installed air pollution control equipments like ESP, Bag Filters. Opacity meter installed in the stack was found operational for emission monitoring. Industry has install water sprinklers for dust suppression. Internal roads have been made pucca. Garland drain, check dams were established along the raw material storage area to prevent water pollution. For conservation of rain water, harvesting pits were established inside the premises. Plantation has been done on 14 ha. land within plant premises.

5. Details of observations made during investigation of complaint : -

Sn	Points mentioned in complaint	Observation
1	That Rukrnani Power Plant is a bio-mass based plant and is illegally using the coal and ash is being thrown haphazardly in the agricultural fields.	As per the Chhattisgarh Gazette dated 22 May 2008, paragraph no. 5.2 (iii) for power generation the feeding ratio of biomass and coal is 85:15. Therefore Industry allowed to use 15 percent of coal for power generation. From which approximately 1100 tons of Ash generated per month. Total 14928 Tonnes of fly ash generated during the period of January 2023 to January 2024, out of which 4004 tonnes was supplied to M/s Rukmani fly ash brick plant dabhra road kharsia, M/s Sharma bricks unit near dabhra sakti, MIs Balaji fly ash bricks kharsia for brick manufacturing and the remaining 10923 tonnes used for the filling of low lying areas within the plant
2.	That Further allegation is that Power plant 270 MT of coal per day and it stops ESP (electrostatic precipitator) at night, as result of which huge quantity of PM10 and PM2.5 particulate matters spread in the nearby villages and forest.	month. When husk is wet industry uses coal fines for steam generation and gaining required heat at the time of light-up. During inspection the manegment of the industry shown records of fuel consumption and month wise electricity production data from January 2023 to January 2024 which was given to Electricity Department. According to this report during the said period, approximately 127196 MT husk and 1708 MT coal fines were consumed. The calculated ratio was found to be 86:14, which was under the limit of prescribed ratio 85:15. Industry has installed separate power meter for ESP and Online Continuous Emission Monitoring System was installed in the stack for emission
3	That It also alleged that Plant is using ground water in huge quantity (700 cubic meters per day) without permission of water resources department.	Approval from Executive Engineer, Water Resource Department, Raigarh vide letter number 4689 dated 06/11/2008 for the usage of 0.40 million cubic meter water of Lohakhan Tank for Industrial purpose. For domestic use industry obtained No Objection Certificate from Central Ground Water Authority for the usage of 9,50 cubic meter/Day of water. For this Industry has 03 nos. of borewells with water meters. Annexure-III

4	That there are several hectares of forest around the said plant (Protected forest & Reserve forest) & 1. 1189-P.F.-13.010 Hectare (Dholpahari) 2. 1188-P.F.- 80.289 Hectare (Bedojhariya) 3. 1187-P.F.- 72.743 Hectare 4. 1190-R.F.- 167.685 1-la (Budha Pahad) 5. 1191-R.F.- 184.583 Hectare	The total land of the industry is 40.597 ha. which has'nt come under forest area. Annexure-IV. Plant is located as per permission to establish issued from Chhattisgarh Environment Conservation Board.
5	That the smoke comes out from the chimney contains SO₂, NO₂, CO₂ and CO which affecting nearby wild animals of forests, Biodiversity and aquatic animals. It also increases acid rain that affects historical inscription of Basnajar Hills located near Rukmani Power Plant. SO₂ (Sulphur Dioxide) + $\frac{1}{2}$ O₂ + H₂O → H₂SO₄ NO₂ (Nitrogen Dioxide) + $\frac{1}{2}$ O₂ + H₂O → HNO₃	Industry has installed gas analyzer in the stack for the analysis of SO₂, NO₂. Presently emissions found under prescribed limit. Annexure –V.
6.	That the waste material from the plant is disposed of in the nearby fields affecting agricultural yield.	Fly ash generated as solid waste has been utilized in brick manufacturing and filling of own low lying land within plant premises.
7.	That substantial numbers of local people were employed but now a days many peoples has been sacked. They are unemployed now.	A total of 170 employees/workers are employed in the industry out off which 147 from Raigarh districts, 10 from other Districts of Chhattisgarh states and 13 from other states. Annexure –VI
8.	That the plant has not taken any corporate social responsibility (CSR) in respect of the villages from where the land has been acquired.	. As per the enactment of Companies Act 2013 by the Ministry of Corporate Affairs, Government of India industry does not comes under the liability of CSR. Industry has informed that in the year 2023-24 pond deepening and beautification work was done in the villa :e Ranisa ar and Sarai ali. Annexure — VII

9	That the road between Raigarh main road and Basnajhar access road, used by the heavy vehicles going to the plant is damaged completely.	Basnajhar approach road from Kharsia-Raigarh main road was found in damaged condition. This road is utilized by M/s Rukmani Power and Steel Pvt. Ltd., vehicles from warehouse of Food Corporation of India and general public. During visit the fact comes in cognizance that the road comes under the purview of Forest Department. Industry informed that no other optional road is available for transportation of heavy vehicles.
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From the above observations the joint committee recommends as follows:-

1. Industry shall maintain separate stock register of husk and coal.
2. Information regarding the maintenance/repairing of Basnajhar access road from Kharsia-Raigarh main road shall be gathered from Forest Department Raigarh with timeline for completion of work.
3. Industry shall utilize fly ash generated on prior basis for filling in abandoned mines, road construction and brick manufacturing.
4. Industry shall construct additional shed for storage of husk.

4. Notices were also issued to the Respondent no. 3/Project Proponent and in compliance thereof the Respondent No. 3/Project Proponent has filed the reply with the following facts :

“1. At the outset, without prejudice to the submissions of the Respondent No. 3 on the recommendations made in the said Report, it is respectfully submitted that, since no violations at all have been found by the Joint Committee, the Respondent No. 3 is presently confining its submissions only to the recommendations made in the said Report, reserving liberty to make such further and/ or additional submission(s) on the merits of the allegations made in the complaint filed by the Applicant, if so necessitated in the facts and circumstances during the

proceedings of the case or as directed by this Hon'ble Tribunal.

2. The point-wise submissions of the Respondent No. 3 on the recommendations made by the Joint Committee are as under:-

(1) *In re: Industry shall maintain separate register of Husk and Coal.*

A) The Chhattisgarh State Electricity Regulatory Commission ("**CSERC**") has been constituted under Section 82 of the Electricity Act, 2003 ("**the 2003 Act**") to, *inter-cilia*, regulate the power supply in the State, determine the rate/ tariff of the power companies for purchase by distribution licensees, specify the norms for such purchase etc.

B) In exercise of powers under Section 181 of the 2003 Act, the CSERC has notified the Chhattisgarh State Electricity Regulatory Commission (Terms and conditions for determination of generation tariff and related matters for electricity generated by plants based on renewable energy sources) Regulations, 2022 ("**CSERC RE Regulations**") vide Chhattisgarh Government Official Gazette on 31.12.2022 for the period of 01.04.2022 - 31.03.2024 (3 years).

C) For the biomass power plants commissioned prior to 21.03.2022 (such as RPSPL), Regulation 40.1 of the said CSERC RE Regulations provides the percentage of permissible Fuel Mix ratio of biomass vis-à-vis coal as 85:15 % respectively. Further, under Regulation 41, a '*Monitoring Mechanism for the use of fossil/biomass fuel*' has been set-up by the CSERC as under:-

41. Monitoring Mechanism for the use of fossil/biomass fuel

41.1 The project developer **shall furnish a monthly fuel procurement statement and monthly fuel usage statement duly certified by Chartered Accountant/Cost Accounted** to the beneficiary, with complete details as may be required to the satisfaction of the beneficiary, with whom the power purchase agreement has been made (with a copy to appropriate agency i.e. CREDA appointed by the Commission for the purpose of monitoring the fossil and non fossil fuel consumption) for each month, along with the monthly energy bill. The statement shall cover details such as -

i. Sources of fuel procurement

ii. **Opening fuel stock quantity (in tonnes), for each type of fuel,**

iii. **Receipt of fuel quantity (in tonnes) at the power plant site for each type of fuel during the month,**

iv. **Quantity of fuel (in tonnes) for each fuel type (biomass fuels and fossil fuels) consumed during the month for power generation purposes,**

v. **Closing fuel stock quantity (in tonnes) for each fuel type (biomass fuels and fossil fuels) available at the power plant site at the end of the month,**

vi. **Cumulative quantity (in tonnes) of each fuel type (biomass and fossil fuel) procured till the end of that month during the financial off,**

vii. **Cumulative quantity (in tonnes) for each fuel type (biomass and fossil fuel) consumed till end of that month during the financial year),**

viii. Actual (gross and net) energy generation (denominated in lakh of units) during the month,

ix. Cumulative actual (gross and net) energy generation (denominated in lakh of units) until the end of that month during the financial year,

41.2 In case designated agency is satisfied, that the generator has reached to a stage whereby compliance of the fuel mix criterion on annualised basis (financial year) is not possible, it will intimate to the concern beneficiaries and generators with details of such conclusions. Thereafter beneficiary shall issue notice to the generator with reasons and instead of paying the preferential tariff, shall deal with the issue in accordance to express provisions given in Regulations 41.3. Appropriate mechanism shall be incorporated in the power purchase agreement between the parties with due approval of the Commission for the compliance of fuel mix ration as prescribed by MNRE.

41. 3 **Non-compliance with the condition of fossil fuel usage by the project developer (achieved CoD**

before and after April 01, 2012), during any financial year, shall render such biomass power project to be ineligible to avail preferential tariff determined as per these Regulations in the year of default during such financial year when such default occurs. However, such defaulting Biomass Power Project shall continue to sell power to concerned distribution licensee even during the period of default. The rate of supply to distribution licensee will be weighted average pooled price at which the distribution licensee has purchased the electricity including cost of self generation, if any, (in the defaulting year of biomass plant) from all the long-term and short-term energy suppliers, but excluding those based on renewable energy sources, as the case may be, for the entire year of default and additional payment arrived to such power project will be adjusted in future bills in six equal monthly instalments."

D) It is respectfully submitted that the Respondent No. 3 is duly complying with the permissible fuel-mix ratio as well as maintaining separate registers for each type of biomass fuel such as Husk, Paddy etc. and Coal. Respondent is also reporting the same on monthly and annual basis to the Nodal Agency i.e. Chhattisgarh Renewable Energy Development Agency(CREDA) appointed by the CSERC for the purpose of monitoring the fossil and non-fossil fuel consumption.

E) As a matter of fact, and record, RPSPL is maintaining separate registers for each fuel type (biomass fuels and fossil fuels), on daily basis and carrying out entries in the accounting software on monthly basis. For the purpose of illustration, copies of extracts of separate registers regarding biomass and coal usage by RPSPL for the period of 01.01.2023 -- 31.01.2024 are marked and annexed hereto as **Annexure R3-1**. RPSPL craves liberty to reproduce the extracts of registers for earlier periods, if at all so warranted or as directed by the Hon'ble Tribunal.

F) Hence, the Respondent No. 3 is already complying with the first recommendation of the

Joint Committee and no further directions are necessitated on this account.

(ii) Information regarding the maintenance/repairing of Basnajhar access road from Kharsia-Raigarh main road shall be gathered from Forest department, Raigarh with timeline for completion of work.

A) It is undisputed fact that the Basnajhar access road from Kharsia Raigarh main road comes under the purview of Forest Department, hence Respondent No. 3 has no control over the maintenance/repair-work of the said access road. It is also undeniable that besides the said access road, there is no other road available connecting the main road to the plant and other nearby villages.

B) As also a matter of fact, Respondent No. 3 took up the issue with the Forest Department vide its letter dated 07.12.2007 and also personally met with the officials of the Forest Department, requesting them to carry out the maintenance and repair-work of the said access road. RSPL also undertook to contribute to the repair work using its own labour, However, said request was denied by the Forest Department vide its letter dated 12.12.2007 citing penal provisions of the Indian Forest Act, 1927. Respondent was orally advised to file an application with Member of Parliament (MP).

Copies of the letters dated 07.12.2007 sent by Respondent No. 3 and reply received from the Forest Department dated 12.12.2007 are marked and annexed hereto as **Annexure R3-2**

C) Hence, the second recommendation of the Joint Committee is not with respect to the Respondent No. 3.

(iii) Industry shall utilize fly ash generated on priority basis for filling in abandoned mines, road construction and brick manufacturing.

A) It is respectfully submitted that the Respondent No.3 is duly complying with the requirement of 100% ash utilisation and its disposal as per norms. It is for this reason that the Joint Committee has not found any violation.

B) Further, Respondent No.3 is already coordinating with the Respondent No. 2 CECB regarding the available mines in low lying areas as for ash disposal. Respondent No. 3 has also contracted with nearby brick manufacturing plants for the utilisation of fly-ash produced by the power plant.

(iv) Industry shall construct additional shed for storage of Husk

A) It is respectfully submitted that pursuant to the site inspection visit by the Joint Committee on 10.02.2024, the Respondent No.3 undertook and already completed the construction of 2 (two) additional sheds for storage of Husk.

B) Hence, the fourth recommendation by the Joint Committee is duly complied with by the Respondent No. 3 and no further directions are necessitated on this account.

5. Learned Counsel for the Respondent no. 3 has argued that the access road which is in the recommendations at sl. No.2 comes under the jurisdiction of Forest department. Hence Forest Department has to do repair work of this access road. It is further argued that necessary correspondences are being made from the State Authorities. Rest of the recommendations has been complied by Project Proponent.
6. The reply submitted by the Respondent/Project Proponent discloses that the recommendations submitted by the Joint Committee report has been complied by the Project Proponent, accordingly, we are of the view not to further proceed. However, we direct the project proponent to regularly monitor to comply the recommendations made by the Joint Committee and ensure the compliance of the environmental condition. State Pollution Control Board is directed to periodically monitor the compliances and take action according to rules in case of violation.

7. With these observations the Original Application NO. 127/2023 (CZ) stands **disposed** of.

Sheo Kumar Singh, JM

Dr. A Senthil Vel, EM

8th August, 2024
OA No. 127/2024(CZ)
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