

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

Original Application No. 272/2019

Satyanarayan Sahni

Applicant(s)

Versus

State of Bihar

Respondent(s)

Date of hearing: 03.02.2020

**CORAM:** HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER  
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER

**Law.in**  
ORDER .in  
ALL ABOUT LAW

1. A report was sought from District Magistrate, Muzaffarpur and Bihar State Pollution Control Board with reference to the allegation of pollution being caused by fly ash dump set up by thermal power plant at Village Kanti Nagar, District Muzaffarpur, Bihar causing damage to the public health, animal health and ecology in the area.
2. Accordingly, a report has been filed by the State PCB on 21.12.2019 finding deficiencies in handling of the fly ash by the Thermal Power Plants in question. The observations are:-

*“(ii) During inspection, all the four units of the thermal power plant under Stage - I & II, have at present, three ash-ponds of which two ash-ponds in use since 1985 with no standard scientific design, take care of all the ash-slurry. The third pond called as ash-dyke, is under construction and is proposed to take care of the ash-slurry from all the said four units of stage- I*

& II. The ash, at present, being deposited in the said ash-pond nos. 1 & 2 occasionally breach and allow ash-slurry to the adjacent village named Kothiya. Further, for the purpose of ongoing construction of ash-dyke, trucks & lorries ply through the embankment of ash-pond nos. 1 & 2, creating air pollution from the dry-ash on the ground and surface. Especially during loading and unloading of fly-ash and movement of the lorries for the purpose of transportation of dry ash to the ash-dyke, under construction, dust rises, creating Air Pollution for the resident in the vicinity. As against the allegation that the required sprinkling of water to suppress dust, was not done, a vehicle for the purpose of sprinkling water could be seen on the job around the ash-pond/ash-dyke. However, the villagers contended that water sprinkling was not done regularly;

(iii) As against the contention that the transportation of fly-ash was not done in the covered vehicle, fly-ash could be seen during inspection under transportation in covered vehicle;

(iv) During inspection at 5 - 6 locations, fly-ash could be seen dumped near ash-pond no. 2, adjacent to the Kothiya village. Upon query, the management of the plant informed that the local people take out the ash-slurry from the ash-pond and dump the same on the bank, so as to dry it and store it. The wet-ash dumped on the site subsequently becomes dry, and when wind blows, rises as dust causing Air Pollution in the vicinity. Locals, however, refrained from giving any comment on that;

(v) As regards incidence of diseases like Cancer, TB to the villagers and death of animals including damage to the crop, the inspecting team contacted one, Dr. U.K. Chaudhary, Incharge, Primary Health Centre, Kanti and Dr. Ashok Kumar, Incharge, Veterinary Hospital, Kanti, who did not affirm in favour of the applicant's allegation. However, the concerned veterinary doctor informed that; in September, 2018, six animals died, but due to the complications relating to pregnancy and in respect of which records are also available;

(vi) As regards crops and plants getting affected adversely due to the pollution from ash-ponds, no such sign or symptom were visible. However, the Board requested the Secretary, Agriculture Department, Govt. of Bihar and Secretary, PHED, Govt. of Bihar, vide the Board's letter nos. 7295, dated 12.12.2019 and 7251, dated 12.12.2019, respectively, to arrange for conduction of test on the effects of the activities

of thermal power plant in the radius of 10 kilometer on agriculture and also to test at least two samples collected from each panchayat areas in the radius of 10 kilometer for obtaining analytical results in respect of heavy metals. Both the departments have been requested to supply their respective results to the Board so as to report the same further to the Hon'ble Tribunal;

(vii) The allegation of the applicant with regard to pollution of water and resultant adverse effect on the crops and land were also inspected and looked into. After detailed discussions with the management of the plant and physical inspection of the locations, under reference, it was gathered that the thermal power plant, which is required to maintain Zero Liquid Discharge (ZLD), fails to arrest industrial discharge from mixing with the storm water in rainy season. The overflow reaches the lands, in question, causing concern of the people. The facility for the separation of industrial and storm - water drain is inadequate. The problem, under reference, can be taken care of once the management had foolproof system.

In addition to the said discharges in the rainy season, the incidence of seepage from the toe-line of the ash-pond, could be seen, as the existing two ash-ponds in the working condition are not perfectly designed, and therefore, in the near future, when the third pond i.e. ash-dyke becomes operational in the coming 5 - 6 months time, the problem may be solved. After detailed inspection by the team, certain recommendations were made to address the problem:-

- (a) To ensure regular sprinkling of water on peripheral road upon which heavy vehicles ply;
- (b) To ensure transportation of fly-ash/ soil by covered vehicle;
- (c) To ensure fencing, lighting and adequate security around the ash-pond/ dyke;
- (d) To ensure test of ground water and water from hand-pump about heavy metals from some government organization (accredited lab);
- (e) To ensure construction of toe-drain and peripheral drain around ash-pond/ dyke to stop seepage of water into framers' field and also to ensure that there is no breach of ash-pond/dyke in the rainy season;
- (f) To ensure green belt around the peripheral drain by plantation wherever space is available;

- (g) To ensure adequate maintenance of 'discharge pipeline rotation', so that discharge - pipeline in the ash-water recirculation system could remain leakage proof; and
- (h) To ensure compliance of the conditions imposed in the environmental clearance/ CTO and directions given by the Central Pollution Control Board and State Pollution Control Board.

5. That subsequent to the inspection on 06.12.2019 - 07.12.2019, M/s. Kanti Bijlee Utpadan Nigam Limited, Kanti Unit, Muzaffarpur has been served with a Proposed Direction under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and section 31A of the Air (Prevention and Control of Pollution) Act, 1981, proposing thereunder environmental compensation in light of the findings during inspection by the Board.”

3. Let a further status report of the action taken in light of the above be furnished by the State PCB by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) within month.

A copy of this order be sent by email to the State PCB.

List again on 08.04.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

