

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA**

**O.A. No. 24/2014/EZ**

**SUBHAS DATTA**

**VS**

**GOVT. OF WEST BENGAL & ORS**

**CORAM:** **Hon'ble Mr. Justice Pratap Kumar Ray, Judicial Member**  
**Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member**

**PRESENT:**

<b>Applicant</b>	<b>: Mr. Subhas Datta, Advocate in person</b>
<b>Respondent No. 2 &amp; 6</b>	<b>: Mr. Bikas Kargupta, Advocate</b>
<b>Respondent No. 3</b>	<b>: Mr. Lakshmi Kumar Gupta, Sr. Advocate</b>
	<b>Mr. N.C. Bihani, Advocate</b>
	<b>Ms. Papiya Banerjee Bihani, Advocate</b>
<b>Respondent No. 4</b>	<b>: Mrs. Arpita Chowdhury, Advocate</b>
<b>Respondent No. 5</b>	<b>: Mr. Surendra Kumar, Advocate</b>
<b>Respondent No. 1</b>	<b>: None</b>

<b>Date &amp; Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 3</b> <b>15<sup>th</sup> September,</b> <b>2015.</b>	<p>Mr. Subrata Mukherjee, Member Secretary, PCB has filed an affidavit in response to our query relating to the power of the PCB to grant extension of consent to operate retrospectively. Let the affidavit be kept with the record. It appears that nothing specific has been mentioned answering the issue as has been asked. The Environmental Engineer concerned, who extended the consent to operate retrospectively in respect of Bakreshwar Thermal Power Project has not filed any affidavit though directed.</p> <p>Having regard to such, as a last chance, the said Member Secretary and the Environmental Engineer concerned, are directed to file their respective affidavits answering the point raised in our order dt. 28.8.2009 enclosing all relevant documents and papers relying upon which the consent to operate was granted including also power and jurisdiction to do so. Such affidavits be filed within one week failing which this Tribunal will be compelled to take coercive action against them.</p>

The supplementary affidavit as filed by Bakreshwar Thermal Power Project answering the question in terms of our earlier order be kept on record. Copies have been served on the respective respondents and the applicant. The respective parties are at liberty to file rejoinder within one week.

Mr. Datta, the applicant herein, who appears in person, has referred to the photographs taken on 5.9.2015 and submits that till date fly ash water is being discharged into the river Chandrabhaga and there is no zero discharge in terms of the suggestion made by Dr. Kalyan Rudra, the Chairman of the WBPCB and a river Expert, who was appointed by the Tribunal to identify the problems and recommend solutions and measures for removal of the fly ash as discharged and restoration of the river. Let the photographs be kept on record.

Mr. Laxmi Kumr Gupta, Ld. Addl. Advocate General, Govt. of West Bengal has, however, submitted that there has been no discharge of untreated water to the river and the water that is being discharged to the river is adhering to the prescribed standard.

In view of the facts placed before us, we are of the view that for effective adjudication of the matter, NEERI, an independent body, having necessary scientific expertise in such matters, should make an on the spot study and answer the following points :

1. Whether the quality of the ash pond water discharged to river Chandrabhaga conforms to the stipulated National standard ?
2. Whether there exists any treatment facility near ash pond to treat the ash pond water before it is discharged to the river ?
3. What are the quality of inlet and outlet water in terms of suspended solids in case here is treatment facility?
4. Whether it is possible to adopt "Zero Discharge Norm" by the industry through circulation and re-circulation?
5. Whether there is any violation of consent conditions granted by State Pollution Control Board for management of fly ash generated from the Industry ?

The NEERI shall appoint a committee of two scientists to undertake the study and the State Pollution Control Board shall provide a copy of

the consent to operate certificate where the conditions have been stipulated for compliance by the power unit. The committee shall intimate the Project Proponent, the applicant and the State Pollution Control Board at least 48 hours before visiting the Unit. The Project Proponent, Respondent No. 3, will extend all facilities to the expert committee for completion of the study.

Let such report be submitted to the registry within two weeks.

**The matter is posted on 14.10.2015.**

On that date, the affidavits to be filed by the Member Secretary, PCB and the Environmental Engineer will also be considered.

The Registry is directed to communicate this order to the regional office of NEERI at Kolkata forthwith.

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Justice Pratap Kumar Ray, JM

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Prof. (Dr.) P. C. Mishra, EM

