

Item No.2:-

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Dated this the 31st day of January, 2024.

(Through Video Conference)

**Miscellaneous Application No.17 of 2023 (SZ)
in
Original Application No.08 of 2016 (SZ)**

IN THE MATTER OF:

**1) Tamil Nadu Generation and Distribution Corporation
(TANGEDCO)**

Represented by its Chairman cum Managing Director
10th Floor, NPKRR Maaligai,
144 Anna Salai, Chennai – 600 002.

2) North Chennai Thermal Power Station

Represented by its Chief Engineer
Athipattu, Chennai,
Thiruvallur District – 600 120.

...Applicant(s)/
Respondents No.2 & 3

Versus

1) R. Ravimaran (Died)

S/o. Ramachandran
No.42, Beach Road,
Thazhankuppam,
Ennore, Chennai – 600 057.

2) R.L. Srinivasan

S/o. R. Lakshmi pathi
31/36 Porkali Amman Street,
Kattukuppam, Ennore,
Chennai – 600 057.

3) K. Saravanan

S/o. Kasinathan
No.30, Urur Kuppam,
Besant Nagar, Chennai – 90.

...Respondents No.1 to 3/
Original Applicant(s)

4) Union of India

Represented by its Secretary
The Ministry of Environment, Forests and Climate Change,
Jorbagh, New Delhi.

...4th Respondent/
1st Respondent

5) Kamarajar Port Limited (Erstwhile Ennore Port Limited)

Represented by its Chairman cum Managing Director
4th Floor, Super Speciality Diabetic Centre (Erstwhile DLB Building)
Near Clive Battery Bust Stop
Rajaji Salai, Chennai – 600 001.

6) The Tamil Nadu Pollution Control Board

Represented by its Member Secretary
76, Mount Salai, Guindy, Chennai – 600 032.

7) The District Environmental Engineer

Tamil Nadu Pollution Control Board
77-A, South Avenue Road,
Ambattur Industrial Estate,
Ambattur Taluk, Thiruvallur District,
Chennai – 600 058.

8) The Tamil Nadu Coastal Zone Management Authority

Represented by its Member Secretary
Panagal Building, Chennai.

9) The Public Works Department

Represented by its Secretary
Fort St. George, Chennai.

...Respondents No.5 to 9/
Respondents No.4 to 8

For Applicant(s):

Mr. P. Wilson, Sr. Adv. a/w.
Mr. S.T. Raja.

For Respondent(s):

Mr. A. Yogeshwaran for R1 to R3.
Mr. G.M. Syed Nurullah Sheriff for R4.
Mr. S. Sai Sathya Jith for R6, R7.
Dr. D. Shanmuganathan for R8 & R9.

Judgment Reserved on: 24th January 2023.

CORAM:

HON'BLE SMT. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

JUDGEMENT

Delivered by Smt. Justice Pushpa Sathyanarayana, Judicial Member.

1. This Miscellaneous Application relates to seeking an extension of time granted for the completion of replacement of Ash Slurry Disposal Line (ASDL) Pipes No.1, 2, 4 and 5 by the TANGEDCO, Tamil Nadu.

2. This Tribunal in O.A. No.08 of 2016 (SZ) has issued several directions and one of the directions is to complete the replacement of all old ASDL Pipes No.1, 2, 4 and 5 before June 2022. This Miscellaneous Application was filed on 29.11.2023 after a lapse of nearly 1 ½ years from the deadline fixed.

3. The NCTPS – I / TANGEDCO replaced the Pipe No.3 with new pipes on 09.04.2021 and based on the affidavit filed by the NCTPS – I / TANGEDCO, a timeline of June 2022 was fixed for completing the replacement of remaining ASDL Pipes No.1, 2, 4 and 5. The completion of the replacement of ASDL Pipe No.2 with new pipes on 20.08.2022 was taken on record by the Tribunal and permitted the NCTPS – I / TANGEDCO to use the ASDL Pipe No.2 and stop using ASDL Pipe No.5 by order dated 25.04.2022.

4. In effect, the replacement of ASDL Pipe No.1, 4 and 5 ought to have been completed before June 2022. However, the NCTPS – I / TANGEDCO submits that from 25.04.2022 onwards, the wet ash is conveyed only through the ASDL Pipe No.1 (Old) and ASDL Pipe No.2 and 3 (New) and that the ASDL Pipe No.4 and 5 are not in service.

5. The NCTPS – I / TANGEDCO has furnished the details of the measures undertaken by them for the replacement of old pipes and floated tenders as noted below:-

Sl. No.	Tender Details	Description	Remarks
1	CE-104/2021/22	Supply of Cast Basalt Lined MS Pipes for Ash Slurry	The subject tender specification was not in conformity with tender

		Disposal Line No.4	provisions of TN Transparency in Tenders Act, 2000. Hence, the Tender was lodged as per the direction of Board Level Tender Committee/TANGEDCO.
2	CE-106/2021-22	Supply of Cast Basalt Lined MS Pipes for Ash Slurry Disposal Line No.1 & 5	Due to exorbitant rates quoted by the tenderers, the tender could not be finalized and lodged as per the direction of Board Level Tender Committee/ TANGEDCO.
3	CE-139/2021-22	Supply and Erection of Cast Basalt Lined MS Pipes for Ash Slurry Disposal Line No.1, 4 & 5.	Since the quoted rates were very high, the tender was lodged.
4	CE-204/2022-23	Supply and Erection of Cast Basalt Lined MS Pipes for Ash Slurry Disposal Line No.1, 4 & 5	Due to single eligible offer, the tender was lodged as per the direction of Board Level Tender Committee/ TANGEDCO.

6. It is reported that in spite of continuous and sincere efforts, tenders could not be finalized and even the last tender, for which, the due date of opening is fixed on 05.12.2023, had to be cancelled, as two of the three bids had to be disqualified and therefore, it was decided to go for a fresh tender.

7. It is also informed orally that the fresh tender has been floated on 13.01.2024 and the date fixed for the opening of bids is 31.01.2024.

8. The TANGEDCO has explained the reasons for the delay and also the timelines required for procurement and laying of Cast Basalt Lined MS ERW Pipes which are made to order and are not readily available in the market. They have also explained that the erection of each pipeline (i.e. for 5 Kms) work involves leading, lifting, and transporting the pipes to the location by engaging cranes, more workforce and need to handle the pipes with due care, it can only be done during night time to avoid disturbance to the public and to avoid traffic. Hence, the erection of pipelines (i.e. for 5 Kms) will take another three months period from the date of receipt of material.

9. In view of the above factors, the NCTPS – I / TANGEDCO sought for the revised timelines (as noted below) for the replacement of ASDL Pipes No.1, 4 and 5 with new pipes as noted below:

- (i) Replacement of ASDL Pipe No.4 with new pipe: August – 2024
- (ii) Replacement of ASDL Pipe No.5 with new pipe: November – 2024
- (iii) Replacement of ASDL Pipe No.1 with new pipe: December – 2024

10. Heard the learned Senior Advocate Mr. P. Wilson appearing for the applicant viz., NCTPS – I / TANGEDCO and the learned counsels appearing for the respondents.

11. It was submitted by the Senior Advocate Mr. P. Wilson that the TANGEDCO could not execute the work in consonance with the undertaking dated 29.11.2021 and that the delay was not wanton or wilful but it was due to reasons beyond their control and prayed for the revised deadline of December 2024.

12. The learned counsel for the Respondents No.1 to 3/ Original Applicants stoutly objected to the revised timelines stating that it is a common practice for the NCTPS – I / TANGEDCO to prolong the replacement of ASDL Pipes. He also stated that even Cast Basalt Lined MS ERW Pipes will not have a long life and very soon, the same old story of leaking slurry will become a reality. Instead, he suggested that the NCTPS – I / TANGEDCO may consider using pipelines as per '*The American Society of Mechanical Engineers (ASME) Code for Pressure Piping, B31*', since currently there are no Indian Standards for pipeline transportation systems for liquids and slurries. It was also suggested that the standard indicated in Table C 423.1-1 may be followed.

13. A perusal of the miscellaneous application clearly reveals that this application has been filed by the NCTPS – I / TANGEDCO only in response to the Tribunal's review of the compliance in O.A. No.08 of 2016 (SZ) and that too, after a gap of more than 1 ½ years. We are unhappy to note that the NCTPS – I / TANGEDCO has not taken efforts to seek revised timelines before June 2022. The belated filing of miscellaneous application only indicates the non-seriousness of the NCTPS – I / TANGEDCO on a very important issue. Unless the concerned agency takes prompt action based on the orders of the judicial forum, be it a Tribunal(s) or Constitutional Court(s), the very purpose of the order will be defeated.

14. The plea of the TANGEDCO has been examined and the plea of the NCTPS – I / TANGEDCO that the delay in execution of the work is not wanton or wilful and it was for reasons beyond their control.

15. It is noted that the Government Agencies are bound by statutory provisions to be followed for procurement and execution of works and when there is no response from the qualified bidders, the executing agency will have no other option but to float fresh tender. It is unfortunate that the attempts of the NCTPS – I / TANGEDCO have failed on many occasions, as indicated in the table (supra).

16. Therefore, we are inclined to grant additional time for the replacement of ASDL Pipe No.1, 4 and 5. The undertaking given by the NCTPS – I / TANGEDCO under the caption "*Measures being taken to prevent the leakage of ASDL Pipes*" which are reproduced below are taken on record and are to be followed by the agency in its letters and spirit.

- In order to mitigate the leakages in ash pipelines, the worn out pipes are identified and rectified by providing patch plates as immediate measure and by further replacement with available pipes.
- In addition, round the clock monitoring along the entire pipelines is being carried out by engaging a patrolling team with 24 Hours vehicle to notice the leakage and stop the pump immediately and to attend the leaks then and there. Now, occurrence of leakages outside NCTPS – I premises is almost 'NIL'.
- If, any of the location along the pipelines found

weeping (i.e. the initial stage of leakage), the same will be attended immediately and thereby the further leakages gets prevented.

- In addition to the above, it is also submitted that the PDFAC System (Pressurized Dense Fly Ash Collection System) for collection and disposal of dry fly ash in all the three units have been strengthened as below.
- 6 Nos. of new compressors have been procured (4 Nos. have been installed and in service) and replacement of damaged/corroded portion of the pipelines and its allied accessories are being carried out.
- By carrying out the above strengthening works in PDFAC System, the quantum of dry fly ash collection and disposal has been increased substantially in all the three units. This has created a positive impact on reducing the wet sluicing of ash (wet ash collection) which in turn reduces the quantum of slurry through ASDL pipeline and thereby probability of leakage also got reduced to a greater extent.

17. While granting time, without affecting the schedule of the ongoing tender, the references submitted by the learned counsel appearing for the Respondents No.1 to 3/ Original Applicants regarding the pipeline transportation systems for liquids and slurries may be examined and if the suggestions in the '*ASME Code for Pressure Piping, B31*' are feasible of adoption both from the point of view of technical suitability and cost-effectiveness, the same may be considered by the TANGEDCO and only if it is found desirable to switch over the material from Cast Basalt Lined MS ERW Pipes to Welded and Seamless Wrought Steel Pipe, etc., the tender process initiated can be rescheduled.

18. It is made very clear that the time taken to examine the suitability of the materials suggested should not be a ground for delaying the ongoing tender process. Only if the TANGEDCO's examination reveals that there is a need for change in pipe material, then revised timelines may be worked out and presented before the Tribunal for approval of revised timelines.

19. The application for an extension of time is filed only after the matter was taken up for reporting compliance. The said application ought to have been filed before the expiry of the time granted. Having failed to do so, the same has to be allowed only considering the interest of the public. Therefore, the application [M.A. No.17 of 2023 (SZ) in O.A. No.08 of 2016

(SZ)] is allowed on payment of the cost of **Rs.1,00,000/- (Rupees One Lakh only)** payable to the Department of Environment, Climate Change and Forests, State of Tamil Nadu **within a period of 2 (Two) Weeks.** On such payment, the amount may be utilized for the restoration of the Ennore Creek area in addition to the funds sanctioned by the Government recently for the same.

Sd/-
Smt. Justice Pushpa Sathyanarayana, JM

Sd/-
Dr. Satyagopal Korlapati, EM

Internet – Yes/No

All India NGT Reporter – Yes/No

**M.A. No.17/2023 (SZ) in
O.A. No.08/2016 (SZ)
31st January, 2024. Mn.**



NGT