

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO OF 2019
(PIL UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

Ashwani Kumar Dubey
Advocate-on-Record
Supreme Court of India
S/o Late Shri D.R. Dubey
R/o House No. 55-56,
Near Mayor Bunglow, Bilaunji (Waidhan),
P.S. Waidhan - 486886, District- Singrauli,
Madhya Pradesh.

Presently at:

61-B, Pocket A, Mayur Vihar Phase-II,
New Delhi - 110091

...Petitioner

VERSES

1. Union of India
Through the Secretary,
Ministry of Heavy Industries,
Shastri Bhawan, New Delhi-110001
2. Ministry of Water Resources RD & GR
Government of India
Through Secretary
Block-11, Jawahar Lal Nehru Stadium Marg,
CGO Complex, Pragati Vihar, New Delhi,
Delhi – 110003.
3. Ministry of Environment, Forest & Climate Change
Government of India
Through Secretary
Indira Paryavaran Bhavan, Jorbagh Road,
New Delhi - 110003
4. Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi – 110032.

5. State of Madhya Pradesh
Through its Secretary
Arera Hills, Bhopal
Madhya Pradesh – 462004.
6. State of Uttar Pradesh
Through its Secretary
Room No.311, Third Floor,
Lok Bhawan, Lucknow - 226001
7. Madhya Pradesh Pollution Control Board
E-5, Arera Colony, Paryavaran Parisar,
Bhopal – 462 016.
8. Uttar Pradesh Pollution Control Board
Building No. TC-12V, Vibhut Khand,
Gomti Nagar, Lucknow - 226010
9. Ministry of Water Resources
State of Madhya Pradesh
Hoshangabad Road, Opp. Pragati Bhawan,
Shikhar Varta, Zone-I, Maharana Pratap Nagar,
Bhopal, Madhya Pradesh - 462023
10. Ministry of Water Resources
State of Uttar Pradesh
90, Cantonment Road, Udaiganj,
Husainganj, Lucknow, U.P.- 226001
11. Vindhyachal Super Thermal Power Station
Vindhyanagar – Waidhan Road, NTPC,
District- Waidhan, M.P. - 486885

.....Respondents

**WRIT PETITION (CIVIL) UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR A WRIT OF MANDAMUS
CERTIORARY, PROHIBITION AND/OR ANY OTHER
APPROPRIATE WRIT/ORDER AND/OR DIRECTION TO
RESPONDENT NO.1 TO 10 TO RESTRICT THE RESPONDENT
NO. 11 FROM DISPOSING THE INDUSTRIAL WASTE TO THE**

NEARBY VILLAGES AND TO DESTROY THE UPCOMING GENERATION OF THE AREA OF DISTRICT SINGRAULI (M.P.) AND SONEBHADRA (U.P.) AND OTHER NEARBY DISTRICTS AND TO COMPLY THE GUIDELINES AND THE DIRECTIONS ISSUED BY THE CONCERNED MINISTRIES AND DEPARTMENTS FOR SAFETY AND SECURITY MEASURES OF SURROUNDING VILLAGES AND RESIDENTS LIVING THEREIN.

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA
AND OTHER HON'BLE COMPANION JUSTICES
OF THE HON'BLE SUPREME COURT OF INDIA

HUMBLE PETITION OF ABOVE-
NAMED PETITIONER

MOST RESPECTFULLY SHOWETH:

1. The Petitioner is filing the present Writ Petition (Civil) under Article 32 of Constitution of India to issue appropriate Writ, Order or Direction to Respondent No.1 to 10 to restrict the Respondent No. 11 from disposing the industrial waste to the nearby villages and to destroy the upcoming generation of the area of district Singrauli (M.P.) and Sonebhadra (U.P.) and other nearby districts and to comply the guidelines and the directions issued by the concerned ministries and departments for safety and security measures of surrounding villages and residents living therein.
2. The petitioner herein is a citizen of India and an Advocate by profession. It is with utmost respect submitted that the

petitioner is practicing in Hon'ble Supreme Court of India as Advocate-on-Record and is a permanent resident of aforementioned address at Madhya Pradesh.

3. The Petitioner has not filed any other Writ Petition either before this Hon'ble Court or before any other Hon'ble High Court seeking same or similar directions as prayed for in this petition. Due to the urgency involved in the matter, no representation was filed.
4. That the Respondent No.1 is the Union of India, Respondent No.2 and 3 are the concerned ministries responsible for the issuance of license, guidelines, rules & regulations for the working of heavy industries for treatment of water. In the said industries, the Respondent No.4 is Pollution Control Board who is responsible to control and to have checks and balances for the control of pollution and safety measures within the industries. Respondent No.5 and 10 are the respective state governments and their departments who are the supervisory authorities of the industries which are running and functioning in their respective jurisdiction. Respondent No.11 is the Thermal Power Project which is guilty of throwing more than 35 lacs metric ton of fly ash, toxic residue, industrial waste and other chemicals in the Rihand Reservoir situated in two districts i.e. Singrauli (M.P.) and Sonbhadra (U.P.).

5. BRIEF FACTS OF THE CASE:

- (A) That in the evening of 06.10.2019, Flyash Dyke of Vindhyachal Super Thermal Power Station (Respondent No.11) breached due to negligence of non-applicant management. Resultantly, huge quantity of Flyash, Bottom Ash, Toxic Water and Industrial/Solid Waste entered in the agricultural fields, water bodies, wells and houses of the people residing in village Gahilgarh, Amhawa Tola, Jubadi, Judi, Surya Nala, Shahpur, Chandawal and other nearby localities.
- (B) It is respectfully submitted that the aforesaid huge quantity of Flyash, Bottom Ash, Toxic Water and Industrial/Solid Waste is continuously entering in the Rihand reservoir and also destroying the reservoir. The Flyash, Chemicals, Toxic and other industrial waste has damaged the standing crops in the fields of poor farmers, their cattles were either died or missing.
- (C) It is with utmost respect submitted that this is not the first time has happened in the history of that area but is a continuous tragedy which happened every year or more than twice in each year in the industries situated therein. Likewise, the ash dyke of other power industries was breached in the year 2016, 2017 and 2018 and that time also it had made bad impact upon the environment, crops of poor farmers, their cattles. It

is further submitted that such continuous discharge of Flyash, Bottom Ash, Toxic Water and Industrial Solid Waste, which were intentionally and willfully discharged by Thermal Power Plants functioning in the concerned Singrauli area in order to avoid their legal duties and liabilities towards the resident of the said area and merely for their greed is affecting the life of upcoming generation i.e. the growing children and health, life and limb of the residents of nearby villages is at stake. The newly born, young children are also affected with unknown and serious ailments /illness, diseases. The children are born with defects in their body parts. Many people have serious ailments/ diseases and also have problems in their breathing and with other body functioning. The photographs of the affected people, children affected with unknown and serious ailments /illness, diseases due to the aforesaid illegal willful discharge of solid waste are annexed herewith as **ANNEXURE P/1** at (Pages to).

- (D) It is respectfully submitted that the water of the Singrauli area and nearby districts has become contaminated and agricultural fields have become unfertile due to the continuous release of concentrations of aluminum, iron, manganese, nickel and mercury. The flyash and solid waste of the

industries has also damaged and entered in the houses of people residing nearby villages and continuously deteriorating the living conditions of the people of nearby districts.

(E) It is respectfully submitted that the national & local newspapers and electronic media have reported the said incident dated 06.10.2019. But the Government and State Administration were kept sitting mum closing their eyes towards the defaulters and the destroyers of the upcoming generation for the reasons best known to them and instead of taking any action, government and the administration are saving them. The news articles published in various newspapers reporting the incident are annexed herewith **ANNEXURE P/2** at (Pages to).

(F) That the Ash Laden Water, Toxic Water, Industrial Waste generated by Respondent- Thermal Power Plants spilled into a radius of 5-7 Kms and causing panic amongst the local residents. It is submitted that emergency like situation has arisen in the area and the Respondents- Thermal Power Plants are not carrying out any rescue measures and have started making a blame-game story instead of clearing the said Toxic Water, Fly Ash, Bottom Ash and Industrial Waste which has extensively spilled on to the agricultural fields,

water bodies and have caused and is causing severe damage to the existing crops.

- (G) That it is respectfully submitted that as per the information, cattle's have been missing and administration is not taking any action, rather trying to threaten the local affected people/poor farmers. It is further submitted that as per the newspaper reports, severe damage have been caused due to the said negligent act of Respondent No.11.
- (H) That the Respondent No.11 has not stopped its operations and is generating Ash, Toxic Water, Industrial Waste and throwing the same in the water bodies without the precautions which is still entering in the agricultural fields, houses, water bodies and is spreading in the nearby areas, hence causing panic amongst the entire area. Their crop has been destroyed and Toxic water has spilled on to their fields and severely damaged their standing crops.
- (I) That it is not the first incident of ash dyke breach, even on earlier occasion, the Flyash Dyke of other industries operating in the same area was breached thereby causing serious damages. It is submitted that the Ash Dyke of Respondent No.11 and other power industries has already crossed its saturated limits and ash laden water is flowing in the Rihand Reservoir and huge

quantity of Flysh Ash/Bottom Ash, Toxic Waste is entering in the water bodies as well as the houses of villagers. Despite that, the Respondents have not taken any preventive measures, resultantly causing further damage to the environment.

(J) That it is respectfully submitted that despite of directions issued for the control of pollution and discharge of solid waste and toxic residue in a precautionary manner, the Respondent No.11 has not taken any preventive measures and it has become a routine for the industry which is causing serious damage to the environment, local people, cattle's, fields, existing crops and water bodies. It is further submitted that the Flyash, Bottom Ash, Industrial/Solid Waste, Toxic Water is entering in the fields, agricultural lands, houses of local people and it is spreading everywhere and causing panic.

(K) That the petitioner belongs to Singrauli, Madhya Pradesh and has deep concern with the issue of life and upcoming generation of the concerned area for his relatives, family, local poor villagers, children and cattle's are affected. Due to the negligence of Respondent- Thermal Power Plants, acute and severe damage has been caused to the life of villagers, upcoming generation to the flora and fauna, agricultural

fields of poor farmers/villagers and to their houses. It is respectfully submitted that the toxic waste, ash mixed with the water and is spreading in other villages with the flow of river/reservoir and destroying the water, crops, soil etc. of the nearby villages. The entire fertile agricultural land has become unfertile due to the regular discharge of flyash, bottom ash, toxic industrial waste.

- (L) That it is respectfully submitted that the Pollution Control Board and Local Administration has not directed the Respondents- Thermal Power Stations to take precautionary measures for controlling these severe polluting discharge of industrial wastes, ash and toxic generated on day to day basis and openly flowing in the open area, water bodies which is entering in the agricultural land and houses of the local people, damaging the existing crops, thus creating panic on routine basis.

6. GROUNDS

- (i) Because due to the negligent act of NTPC Vindhyachal Super Thermal Power Station, lacs of metric ton of flyash, toxic residue, industrial waste and other hazardous chemicals have been thrown in the only source of drinking water (Rihand Reservoir) for the people of two districts i.e. Singrauli (M.P.) and

Sonebhadra (U.P.) has been contaminated and water is not found suitable either for drinking or for household purposes.

- (ii) Because due to the breach of flyash dyke of Vindhyachal Super Thermal Power Station (Respondent No.11) in the evening of 06.10.2019, flyash affected the agricultural land and many cattles were also gone missing.
- (iii) Because due to the negligent act of Person-in-Charge of Respondent No.11 by not taking care of the flyash turned into mudslide and affected the villagers living nearby, standing crops were damaged, water bodies have been severely affected and people are forced to drink the contaminated water mixed with ash.
- (iv) Because due to the collapse of ash dyke on 06.10.2019, as per the primary finding of Pollution Control Board, there has been huge loss to the environment and more than 35 Lacs metric ton flyash stored has been deposited in the Rihand Reservoir through the Naala. The damage to the environment in various contexts viz-a-viz ground water damage, damage of standing crops and the agricultural land have become unfertile.
- (v) Because earlier also, the same incident had happened with the other power projects working in the area,

however none of the industries operating in the area taken care of their flyash dykes.

- (vi) Because most of the ash dykes of all power plants operating in the area have reached to their saturated level and the flyash is overflowing in the river and reservoir of Singrauli (M.P.) and Sonebhadra (U.P.).
- (vii) Because due to the said irresponsible behavior of the concerned officials and the industries operating in that area, the upcoming generation is forced to live in miserable condition with defective body parts and are suffering from serious unknown diseases.
- (viii) Because the people are suffering from stomach pain, joint pain, numbness and excessive salivation, skin of the people residing in the area is becoming discolored. Heath problems like stillbirths, menstrual irregularities, sterility, hyper-pigmentation, anemia and high blood pressure is common.
- (ix) Because the mercury in the air, water and soil is more than the prescribed limit. The adverse impact of the pollution is visible in the blood, hair, nails, legs, hands and body of the people living there.
- (x) Because the fluoride concentration in the water is found higher than the prescribed limit leading to tumors, health hazardous such as dental and skeletal fluorosis affecting most of the people of the area and serious

health disorders are being reported and most of the village of that surrounding area suffer from excess fluoride in the drinking water beyond the prescribed limit which is causing affects in the teeth and bones.

- (xi) Because the negligent act of Respondent No.11 i.e. Vindhyachal Super Thermal Power Station has added more pollutants and hazards in the water, air and soil. The health of the generations are at stake and various studies conducted prove that none of the industries operating in the area are following the prescribed norms leading severe health effects. Till date, no action has been taken against the responsible person of Vindhyachal Super Thermal Power Station responsible for throwing the lacs of metric ton of flyash and toxic received in water body on 06.10.2019.
- (xii) Because ground water in surrounding areas is already highly contaminated with high fluoride concentration, toxic residue and villages namely Govindpur, Kusmaha, Kakri, Harrahwa, Khairahi, Naktu, Sirsoti, Chilkadand, Pasavar Raja and Dibulgang etc. are seriously affected.
- (xiii) Because the level of mercury concentration in ground water is found to be exceeding limit and various villages such as Jayant Colony, Jaitpur, MPCC Colony, Parsawar- Raja, Baliyari, Chilkadand, Kirwani, Parasi, Harrahwa, Naktu, Sirsoti, Kushmaha, Govindpur,

Dibulganj and other villages of Singrauli (M.P.) and Sonebhadra (U.P.).

- (xiv) Because high ph of the effluent is discharged in Dongia Naala by the chemical industries and resulting the contamination of ground water.
- (xv) Because flyash and bottom ash of all the industries situated in the bank of Rihand Reservoir have reached to their saturation level. The overflow of power industries from ash pond, after settling, is discharged into the Rihand Reservoir.
- (xvi) Because huge area (more than 3000 acres) along with the Rihand Reservoir has been occupied for disposal of flyash by the power industries. Most of the ash pond have attend their maximum height and reached their saturation, and therefore, have no further augmentation capacity for disposal of ash slurry. The situation is getting worsen day by day and the flyash is not being utilized as per the flyash notification rather being thrown in the water bodies and rivers. Not only this, the over burden of the coalmines is also playing vital role in damaging the environment and the life of people living in the surrounding villages of Singrauli and Sonebhadra is at stake.
- (xvii) Because the lead, iron, mercury, cadmium and nickel is in excess to the prescribed limit in many villages such

as Bajrang Nagar, Dibulganj and Parsawar Raja. The people are suffering from lung manifestation and silicosis. The animals, human beings, plants are having adverse effect. Thus, the kind intervention of this Hon'ble Court is required in the interest of justice.

(xviii) Because the people living therein are deprived of their fundamental and legal rights guaranteed under Article 21 of the Constitution of India due to such irresponsible behavior of responsible government officials and the heavy industries operating in that area.

PRAYER

In view of the aforesaid facts and circumstances, it is most respectfully prayed before this Hon'ble Court may kindly be pleased to issue: -

- (a) a writ in the nature of mandamus directing the respondents herein to place the relevant records and the data of flyash dykes situated in Singrauli (MP & UP) area, their capacity, and also the relevant information regarding the usage of fly ash according to fly-ash notification.
- (b) a writ in the nature of prohibition directing the respondent's government agencies to direct the thermal power plants of the Singrauli (MP & UP) area to immediately stop discharging their flyash ash, bottom ash, toxic residue and industrial waste in the agricultural lands and rivers/water bodies/Rihand Reservoir.

- (c) directions to the government agencies to direct the thermal power plants operating in the Singrauli area to immediately take precautionary measures to stop from discharging the fly-ash, bottom ash, toxic residue and industrial waste in water bodies and agricultural fields.
- (d) directions to the Government of Madhya Pradesh and Uttar Pradesh to take necessary and immediate steps regarding the safeguard of the residents of Singrauli and Sonebhadra districts and to provide safe drinking water to the affected persons due to the discharge of fly-ash, toxic residue on 06.10.2019.
- (e) any other appropriate writ/order and/or directions in the interest of justice and for the protection of fundamental rights of the residents of Singrauli (MP) and Sonebhadra (UP) districts i.e. Right to Life.
- (f) pass such other order(s) or direction(s) or issue a writ, as this Hon'ble Court deem fit and proper in facts and circumstances of the case; and, allow the cost.

Drawn by:

Filed by:

Pankaj Sharma
Advocate

(Ashutosh Sharma)
Advocate for the Petitioner

New Delhi

Date: .10.2019