



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO. 10680 OF 2025**

Maharashtra State Power Generation Company
Pvt. Ltd.

Through its Chief Managing Director & anr. ... Applicants/
Resp. Nos.2 & 3

In the mater between:

M/s. Kapileshwar Rakhad Kamgaranchi
Abhinav Seva Sahakari Society,

Through its President Yogesh Atmaram Patil ... Petitioner
vs.

The State of Maharashtra

Through Principal Secretary,

Industry, Energy and Labour Department & ors. ... Respondents

**WITH
CIVIL APPLICATION (STAMP) NO. 31245 OF 2025
(Not on board. Taken on board)**

**IN
WRIT PETITION NO. 8531 OF 2025**

M/s. Kapileshwar Rakhad Kamgaranchi
Abhinav Seva Sahakari Society,

Through its President Yogesh Atmaram Patil ... Applicant/
vs. Petitioner

The State of Maharashtra

Through Principal Secretary,

Industry, Energy and Labour Department & ors. ... Respondents

Mr. Rahul Tambe (through VC) for applicant in CA/10681/2025 and
original respondent Nos.2 and 3 in WP/8531/2025.

Mr. V. M. Kagne (through VC), Addl. GP for respondent No.1-State.

Mr. A. A. Fulpagar (through VC) for respondent No.4.

Ms. Pradnya S. Talekar (through VC), i/b. Talekar and Associates for applicant in CA(St)/31245/2025 and original petitioner in WP/8531/2025.

CORAM : MANISH PITALE &
Y. G. KHOBRADE, JJ.
DATE : 13th OCTOBER, 2025
(Through VC.)

P.C. :

. Heard learned counsel for the parties.

2. Civil Application No.10680 of 2025 is filed on behalf of the original respondent Nos.2 and 3 - Maharashtra State Power Generation Company Pvt. Ltd. (MAHAGENCO), seeking modification of certain clauses of the order dated 19.09.2025 passed by this Court in this writ petition (the said order).

3. Civil Application (Stamp) No.31245 of 2025 is filed on behalf of the original petitioner, seeking certain directions against original respondent Nos.2 and 3-MAHAGENCO. The said application is not on board. The same is taken on board.

4. The application for modification of order, filed on behalf of respondent Nos.2 and 3-MAHAGENCO, is occasioned in peculiar circumstances. On 19.09.2025, this Court, by a detailed order, disposed of Writ Petition No.8531 of 2025, giving specific directions in paragraph No.27(a) to 27(h) of the said order. Specific timelines were fixed and respondent Nos.2 and 3-MAHAGENCO were expected to adhere to the same. Despite the stipulation that the said respondents shall not be permitted to seek extension of time to abide by the directions given in paragraph No.27, the instant application is

filed, in the light of a Government Resolution issued on the very same day i.e. 19.09.2025 in the evening (the said GR). The learned counsel appearing for the respondent Nos.2 and 3-MAHAGENCO has brought to the notice of this Court that the said GR was digitally signed and uploaded at 19:21 hours on 19.09.2025.

5. On this basis, we find substance in the contention raised on behalf of the respondent Nos.2 and 3-MAHAGENCO that none of the parties were aware of the said GR being issued on the same day. Since the said GR pertains to the policy of disposal of pond ash, which was the subject matter of the writ petition, it indeed has a bearing on the operative portion of the said order.

6. The said GR has changed the policy of allocation of such dry/wet pond ash to various entities for disposal. Earlier, the distribution was in the ratio of 80:20 between specific entities, while now it is distributed in the ratio of 60:20:20, meaning thereby that 60% of such dry/wet pond ash is to be allocated to Group-I i.e. large scale consumers of the same, 20% is to be allocated to Group-II i.e. micro, small and medium enterprises. Group-I and Group-II are to be allocated such ash through tender/e-auction process. The remaining 20% is to be allocated to Group-III i.e. local brick manufacturers/local micro and small industries consuming ash/project affected entities and individuals. It is further stipulated that the entities covered under Group-III shall be given concession of 50% rate as may be ultimately accepted for Group-II quota. It is also stipulated that the allocation of ash in Group-III quota could be limited to 50 metric tons per month for the entities and/or individuals.

7. This and other stipulations given in the said GR indeed has an effect on the manner in which respondent Nos.2 and 3-MAHAGENCO, would be required to comply with the operative portion of the said order, contained in clauses (a) to (h) of paragraph No.27.

8. In that light, the learned counsel for the respondent Nos.2 and 3-MAHAGENCO prays for modification of clauses (b) and (g), to record that fresh tender process and adherence to timelines, would be concerning only 60% of the quota for Group-I pertaining to large scale consumers of such dry/wet pond ash. It is brought to our notice that the tender process/e-auction process for Group-II pertaining to 20% of the ash, was initiated by issuing a tender notice dated 01.10.2025. Upon determination of the rate for the said quota pertaining to Group-II, the allocation of ash to various entities under Group-III would be undertaken without tender process at 50% of the rate of Group-II.

9. Considering the submissions made on behalf of the applicants/ respondent Nos.2 and 3-MAHAGENCO and in the light of the aforesaid new policy of the State, manifested under the said GR, we are inclined to grant modification, for the reason that otherwise, the operative portion of the said order would be rendered unworkable.

10. The learned counsel for the petitioner and the applicant in Civil Application (Stamp) No.31245 of 2025, submits that the direction contained in clause (f) of paragraph No.27 of the said order, has been violated by respondent Nos.2 and 3-MAHAGENCO, inasmuch as the petitioner has not been allotted pond ash for short

orders, despite repeatedly approaching the said respondents. It is submitted that the petitioner has been harassed on one ground or the other and that the said direction of this Court is sought to be frustrated by the said respondents.

11. It is further submitted that in the application, the petitioner has sought a specific direction for allotment of pond ash at a particular rate. But considering the policy now adopted by the State in terms of the said GR, this Court may consider issuing appropriate directions in favour of the project-affected entities/individuals in general and if found appropriate, particularly in favour of the petitioner.

12. The allegations made on behalf of the petitioner are refuted by the learned counsel appearing for respondent Nos.2 and 3-MAHAGENCO. He submits that since the rate for Group-II, as per new policy, is yet to be ascertained, which would then be the basis for fixing the rate at 50% for Group-III to which the petitioner belongs, further steps could not be taken. It is further submitted that as the petitioner itself has claimed on affidavit that it is ready to take short orders at ₹ 193 per metric ton, the petitioner should be permitted to pick up pond ash only at the said rate.

13. Having heard the learned counsel for the rival parties, we are of the opinion that the application moved by respondent Nos.2 and 3-MAHAGENCO can be partly allowed and appropriate direction can be issued on the application moved on behalf of the petitioner.

14. As noted hereinabove, the said GR has brought about a major policy change, as regards allocation of dry/wet pond ash for being

disposed of in the ratio of 60:20:20 amongst the aforementioned three groups. In that light, since respondent Nos.2 and 3-MAHAGENCO have already issued tender notice dated 01.10.2025 for Group-II, pertaining to 20% dry/wet pond ash being allocated to the identified entities under the said group and tender notice/e-auction is not required for Group-III, now fresh tender notice will have to be issued only for Group-I pertaining to 60% of the allocation for large scale consumers of dry/wet pond ash. The timeline with regard to issuance of such fresh tender will have to be extended, in the light of peculiar circumstances, despite observations made in paragraph No.27 of the said order.

15. Accordingly, the application filed by respondent Nos.2 and 3-MAHAGENCO is disposed of by modifying clauses (b) and (g) of paragraph No.27 to read as follows:

- “(b) Respondent Nos.2 and 3-MAHAGENCO are directed to issue fresh tender/e-auction notice on or before 17.10.2025 for 60% of the dry/wet pond ash disposal meant for large scale consumers of pond ash, as per the said GR dated 19.09.2025.
- (g) We make it clear that respondent Nos.2 and 3-MAHAGENCO shall not be permitted to seek extension of time to complete the said tender/e-auction process for both 60% i.e. Group-I pertaining to large scale consumers of dry/wet pond ash, and 20% for Group-II meant for micro, small and medium enterprises. If the tender process is delayed beyond the timeline specified by this Court, the officers of respondent Nos.2 and 3-MAHAGENCO shall be held personally responsible for the same.

Needless to say, the timelines for 60% and 20% pond ash disposal will start from the respective dates of the fresh tender/e-auction notices.”

16. As regards application filed by petitioner, we find that till date, it appears that no short orders have been issued to any of the project-affected entities/individuals, including the petitioner. The respondent Nos.2 and 3-MAHAGENCO claim that this has occurred because of the change in policy, as per the said GR. According to the said respondents, it is required to wait for ascertainment of rate for Group-II under the said GR for ascertaining 50% of the rate for Group-III, under which the petitioner is covered.

17. We are of the opinion that issuance of short orders need not wait, for the reason that accumulation of pond ash has the danger of polluting the environment and it is in the interest of respondent Nos.2 and 3-MAHAGENCO, that the disposal of pond ash is expedited.

18. We also find substance in the contention raised on behalf of the petitioner that if the policy manifested under the said GR, is to be applied in true letter and spirit, its benefit must also be taken into consideration, while issuing appropriate direction for short orders, till the tender process is completed by respondent Nos.2 and 3-MAHAGENCO and allocation of pond ash to Group-III is actually undertaken, as per the said GR.

19. In that light, despite offer made by the petitioner, we are of the opinion that the project-affected entities/individuals, including the petitioner, can be permitted to lift pond ash at 50% of the rate that was quoted i.e. ₹ 193 per metric ton for short orders. In that light, respondent Nos.2 and 3-MAHAGENCO are directed to immediately take steps for issuing short orders to project-affected

entities/individuals, including the petitioner, for lifting pond ash to the extent of 20%, till the process is finalized under the said GR at about 50% of the aforesaid rate i.e. ₹ 97 per metric ton.

20. If the project-affected entities/individuals, including the petitioner, apply to respondent Nos.2 and 3-MAHAGENCO, appropriate short orders, in the light of the aforesaid directions, shall be issued by the said respondents within 7 days of such applications being filed.

21. It is made clear that such applications filed by the project-affected entities/individuals shall not be rejected on flimsy and technical grounds, such as the applications not being in format, etc., so long as the applicants are ready to lift the pond ash for short orders at the rate indicated hereinabove, i.e. ₹ 97 per metric ton.

22. Both the applications are disposed of with the aforesaid directions.

(Y. G. KHOBRADE, J.)

(MANISH PITALE, J)

Priya Kambli