

Item No.01

**BEFORE THE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONE BENCH, BHOPAL  
(Through Video Conferencing)**

**Appeal No.28/2024(CZ)  
(I.A. No.126/2024 & I.A. No.127/2024)**

**IN THE MATTER OF:**

- 1. Kanahi Ram Patel,**  
S/o Shri Udenath Patel,  
Aged about 48,  
R/o House No.43, Sarasmal,  
Raigarh Libra, Chhattisgarh-496107,
- 2. Premashila Ratiya,**  
S/o Shri Jyaram Ratiya,  
Aged about 43,  
R/o House No.67, Bandhapali,  
Tamar, Pata Raigarh Dolesara,  
Chhattisgarh -496107
- 3. Narad,**  
S/o Shri Balluram,  
R/o H No. 39/3,  
Libra Tamnar Raigarh,  
Chhattisgarh -496107
- 4. Rinchin,**  
D/o Shri Bina,  
Aged about 46,  
R/o Village Sakta, Post Milupara,  
Tehsil Tamnar, District Raigarh,  
Chhattisgarh -496107

Appellant(s)

**Versus**

- 1. UNION OF INDIA,**  
Ministry of Environment, Forest &  
Climate Change Through its  
Secretary Indira Paryavaran Bhavan  
New Delhi-110003
- 2. STATE OF CHHATTISGARH,**  
Through its Chief Secretary,  
Mahanadi Bhawan, Mantralaya,  
Naya Raipur-492002

Respondent No.01

Respondent No.02

**3. CHHATTISGARH ENVIRONMENT  
CONSERVATION BOARD,**

Through its Member Secretary,  
Paryavas Bhavan, North Block, Sector  
– 19, Naya Raipur, Chhattisgarh-  
492002

Respondent No.03

**4. MAHARASHTRA STATE POWER  
GENERATION COMPANY LIMITED,**

Through its CGM, 4th Floor A-Wing  
HDIL Tower, Bandra East, Mumbai,  
Maharashtra-400051

Respondent No.04

**COUNSELS FOR APPLICANT(S):**

Mr. A. Yogeshwaran, Adv. with Ms. B. Poongkaulali, Adv., Mr. Sagar  
Soni, Adv. & Ms. Rinchin, in person

**COUNSELS FOR RESPONDENT(S):**

Mr. Raghavendra P. Shankar, ASG with  
Mr. Om Shankar Shrivastava, Adv. for MoEF&CC  
Mr. Atmaram N.S. Nadkarni, Sr. Adv. with Ms. Siddhi Gupta, Mr.  
Mahesh Agarwal, Ms. Anchal Mullick, Mr. Arshit Anand & Ms.  
Himanshi Nagpal, Adv. for R-4  
Mr. Yadvendra Yadav, Adv. with Ms. Fizza Sheikh, Adv. for CECB

**CORAM:**

**HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER**

**Date of completion of hearing and reserving of order : 12.02.2026**

**Date of uploading of order on website : 17.04.2026**

**JUDGMENT**

1. Challenge in this Appeal is the grant of Environmental Clearance (EC in short) dated 13.08.2024 by the Ministry of Environment, Forest & Climate Change to M/s Maharashtra State Power Generation Co. Ltd. for operating the Gare Palma Sector-II Coal Mine Project of 23.6 MTPA Capacity in an

area of 2583.487 Ha. at Thili Rampur, Kunjemura, Gare, Saraitola, Muragaon, Radopali, Pata, Chitwahi, Dholnara, Jhinka Bahal, Dolesara, Bhalumura, Sarasmal and Libra villages, Tamnar Tehsil, Raigarh District, Chhattisgarh.

2. The Environmental Clearance is challenged on the ground that the Expert Appraisal Committee of MoEF&CC that granted the Environmental Clearance did not take into account the Judgment dated 15.01.2024 of this Hon'ble Tribunal in Appeal No.26 of 2022 (*Kanhai Ram Patel & Ors. v. Union of India & Ors.*), wherein the first Environmental Clearance granted to the project was quashed by this Tribunal. The Tribunal had directed public consultation for the project to be conducted afresh and directed the MoEF&CC to issue a fresh order, as and when the project proponent submits appropriate information. However, the present Environmental Clearance has been granted without conducting fresh public hearing and has also not taken into account material information on which the first Environmental Clearance was quashed. The Appeal No.26 of 2022 was filed raising the following points, amongst others:-

- (i) In the public hearing held on 27.09.2019, revised EIA Report was not put in public domain;
- (ii) Hydrological study does not assess the impact in proper perspective and is inadequate;
- (iii) Recommendation for grant of Environmental Clearance is without considering report of Indian Council of Medical Research who undertook a study on health assessment and Projection of Health of People living in Tamnar Block, Raigarh, Chhattisgarh;

(iv) Project recommendation is in violation of the observations made by this Tribunal in judgment dated 27.02.2020 in OA No. 104/2018, Shivpal Bhagat vs. Union of India & Others.

3. Post quashing of the Environmental Clearance, the project proponent again applied for grant of a second Environmental Clearance.
4. Submissions of the learned Counsel for the Appellant are that after grant of first EC in favour of the Project Proponent, the Appellant filed Appeal No.26/2022 by the four residents and the Tribunal quashed the Environmental Clearance granted to the Project Proponent as follows:-

*"221. Appeal is accordingly allowed. EC dated 11.07.2022 granted to respondent 4 is quashed. MoEF&CC may re-examine the matter from the stage of conducting public consultation afresh and in case, other appropriate study material is placed on record by proponent, the same may be considered/appraised and a fresh order may be passed by MoEF&CC with regard to prior EC in accordance with law and existing state of environment and ecology."*

5. Thereafter, the project proponent approached the MoEF&CC to reexamine the matter vide letter dated 24.02.2024 and requested the Expert Appraisal Committee to consider their proposal in the upcoming EAC meeting for further deliberation. Pursuant to this letter, the matter was placed before the 8th EAC Meeting dated 28-29 February, 2024 wherein the MoEF&CC directed the proponent to furnish all documents to the EAC for appraisal. That in the meantime, the Project Proponent also applied for an Environmental Clearance through the Parivesh Portal of MoEF&CC and filed an application bearing proposal number IA/CG/CMIN/466451/2024, 9<sup>th</sup> EAC meeting held on 21.03.2024. This matter was taken up for appraisal in the 9<sup>th</sup> EAC meeting held on 21.03.2024 wherein all issues raised by the Tribunal pertaining to public hearing, hydrological study,

ICMR Report and carrying capacity were considered. This meeting also records the letter dated 24.02.2024 sent by the Project Proponent to the EAC seeking re-appraisal of the project. The letter reads as follows:-

*"The Ld. NGT has also directed that MoEF & CC may re-examine the matter and in case, other appropriate study material is placed on record by Mahagenco, the same may be considered/ appraised and a fresh order may be passed by MoEF&CC with regard to grant of EC for the GP-II coal blocks."*

6. The following observations were also made regarding each of the issues:-

*"i) Public Consultation:*

*XXX*

*Pollution Control Board is responsible for conducting a public hearing and also for seeking written responses from the concerned persons having a stake in the environmental aspects of the project or activity. Therefore, the Member Secretary, Chhattisgarh State Pollution Control Board shall provide details of the prescribed procedure followed for the Public Hearing; was this procedure was fully followed as per the rules; the number of people who participated; details of written submissions received; details of issues/concerns raised by the attendees both orally and in writing. The Committee is also of the view that any comments received from the applicants who have filed the case before Hon'ble NGT may also be provided. The Committee is of the view that to further deliberate on this issue, the representatives of SPCB shall be invited to the EAC meeting.*

*ii) ICMR Report:*

*ICMR Report was prepared for the Tamnar region and submitted to MoEF&CC. Some additional conditions already covered by MoEF & CC in the EC were granted to Mahagenco on 11.07.2022.*

*It is requested to kindly share the ICMR Report and its findings with Mahagenco. Accordingly, Mahagenco will comply with the recommendations of the ICMR Report.*

*Observation of EAC: The Committee is of the view that PP shall get the study done from AIIMS Chhattisgarh or reputed Govt. specialised institute for anticipated impact of the project on the health of people living in the surrounding area; suggest remedial measures and the*

*institute should also offer comments on the ICMR report particularly with references in this study on the predicted impact of the project on the health of people living in the surrounding area.*

*iii) Hydrological study:*

*Observation of EAC: The Committee is of the view that the Hydrogeological Study was conducted by NABET Accredited consultant, but Hon'ble NGT observed some shortcomings in the same, particularly concerning high flood levels and mentioned in its judgment that "Moreover, high flood level of the river has been taken for a very small period of 1996-97 to 2002-03, though it should be of the period of last 50 or 100 years". The Committee is of the view that PP shall get the revised study done from IIT (ISM) Dhanbad and the concerned institute shall ensure that observation of Hon'ble NGT and applicants shall be addressed in the proposed study report.*

*iv) Carrying Capacity Study:*

*We understand that a study has been facilitated by CECB under collaboration with IIT Bhilai & IIT Mumbai.*

*It is requested to share the report and the findings and accordingly, we shall comply with the conditions as guided by EAC/MOEFCC."*

7. That the matter was considered next in the 11<sup>th</sup> EAC meeting, wherein following observations were recorded with respect to public consultation and carrying capacity study:-

*"The PP informed that Member Secretary, CECB vide letter dated 29.04.2024 provided details of the prescribed procedure followed and mentioned that procedure was followed as per EIA Notification 2006. It was also informed to the Committee that Sh. R.K Sharma (SE, CECB) and Sh. Jhon Lakda (ACE, CECB) representatives from SPCB has joined the meeting through virtual mode.*

*The Committee is of the view that a health and environment reports mentioned by CECB shall also be considered/referred while conducting health study and carrying capacity study as already suggested by EAC in its previous meeting.*

*It was also informed to the Committee that Maharashtra State Power Generation Company Limited has already obtained Stage II FC on 27.01.2023 and PP vide email dated 03.05.2024 also submitted the*

*letter dated 02/12/2019 issued by the Collector, Raigrah District thereby forwarding the NOCs obtained from Gram Sabha.*

*The Committee is of the view that CECB shall provide their comments on this issue and any other additional information in writing. Further, the Subcommittee shall visit the site and submit its report for further deliberation on the issue.*

...

*Issue 2: Carrying Capacity Study:*

*In this regard, it was informed to the committee that the said study was done for existing coal mines, thermal power plants, sponge iron plants, etc. and this mine was not included in the same. The Committee is therefore of the view, that SPCB shall request IIT Bhilai and IIT Bombay, to conduct carrying capacity study which should include not only the present operating mines and industries but also the proposed industries and mines coming up in the area, along with the mitigative measures which should be taken for the same."*

8. The Project Proponent, M/s Maharashtra State Power Corporation Co. Ltd. vide online application submitted to MoEF&CC vide Proposal No. IA/CG/CMIN/466451/2024 dated 20.03.2024 for grant of prior Environmental Clearance to the project, namely, Gare Palma Sector II Coal Mine Project of 23.6 MTPA Capacity (22.0 MTPA Opencast + 1.6 MTPA Underground) within the mining lease area of 2583.487 Ha of M/s Maharashtra State Power Generation Company Ltd (MAHAGENCO) located at Thili Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, JhinkaBahal, Dolesara, Bhalumura, Sarasmal and Libra villages, Tamnar Tehsil, Raigarh District, Chhattisgarh State - Grant of Environmental Clearance-Regarding.
9. The proposed project activity is listed at S. No. 1(a) Mining of minerals under Category "A" of the schedule of the EIA Notification, 2006 (as amended) and appraised at Central Level. The instant Proposal was earlier considered by the EAC (Coal) in its 9<sup>th</sup> & 11<sup>th</sup> meeting held on 21.03.2024

and 09.05.2024, wherein the proposal was deferred for the want of some additional information. The Project Proponent submitted the additional information vide letter dated 18.06.2024. The proposal was further considered in the 13<sup>th</sup> EAC Meeting held during 1-2<sup>nd</sup> July 2024. The minutes of the meeting and all the project documents are available on PARIVESH portal which can be accessed at <https://parivesh.nic.in>. The proposal is for Environment Clearance of Gare Palma Sector II Coal Mine Project of 23.6 MTPA Capacity (22.0 MTPA opencast + 1.6 MTPA Underground) within the mining lease area of 2583.487 Ha of M/s Maharashtra State Power Generation Company Ltd located at Thili Rampur, Kunjemura, Gare, Saraitola, Muregaon, Radopali, Pata, Chitwahi, Dholnara, Bhalumura, Sarasmal and Libra villages, Tamnar Tehsil, Raigarh District, Chhattisgarh State. The salient features of the project are as under:-

*"i. Location: The project area is covered under Survey of India Topo Sheet No. F44L7, F44L8, F44L11 and F44L12 and is bounded by the geographical coordinates ranging from 22°06'24.215"N to 22°10'49.891"N and longitudes 83°26'15.433"E to 83°31'12.632"E. Project does not fall in the Critically Polluted Area (CPA), where the MoEF&CC vide is OM dated 13th January, 2010 has imposed moratorium on grant of Environment Clearance.*

*ii. Mining Lease: PP submitted that the block area has been acquired on 31.08.2015 vide allotment order no. 103/30/2015/NA for a total area of 2583.487 Ha. Out of the total lease area of 2583.48 Ha, land acquisition process shall be commenced after execution of mine lease deed.*

*iii. Forest Area: PP submitted that the project involves 214.869 Ha of Forest Land. The Stage II FC clearance for the same was obtained vide letter no. 8-06/2022-FC. The PP submitted that there is no broken forest land and there is no violation of FC Act.*

*iv. Protected Area: PP submitted that the project is not located within 10 KM of any ESZ/ ESA/ national park/ wildlife*

sanctuary/biosphere reserve/ tiger reserve/ elephant reserve/tiger corridor/elephant corridor etc. PP submitted that there is no violation of WLP Act. PP also submitted that there is presence of Schedule I species in the concerned area and Wildlife Management Plan for the conservation of the same has been prepared and the same has been approved by PCCF, WL vide letter no. 494/12, dated 20.01.2021.

v. Mining Plan & Method of Mining: The mining plan & mine closure plan for the project was approved for (capacity 23.60 MTPA, Area 2583.48 Ha area) vide letter no. 34011/16/2016-CPAM, dated 12.08.2016. PP submitted that it is an integrated project. Excavation of Coal is through Surface Miner (Surface miners will be used for cutting the coal precisely and selectively). Mining of thin coal by surface miners and ripping has also been now investigated by the RQP besides the drilling/ blasting considered earlier and it has been concluded that the coal mining will be carried out totally by Surface Miners.

vi. Geological reserve: Total geological reserve reported in the mine lease area is 1059.298 MT with 781.78 MT (582.292 MT (Opencast) + 199.393 (Underground) mineable reserve. Out of total mineable reserve of 781.78 MT, 655.15 MT (553.17 MT (Opencast + 101.97 (Underground) are available for extraction. The percentage of extraction is (OC-75.15% and UG-31.55%).

vii. Details of Land usage:

**Pre-mining:**

S. No.	Land Use	Within ML Area (ha)	Outside ML Area (ha)	Total
1.	Agricultural Land	2002.48	Nil	2002.48
2.	Forest land	214.869	Nil	214.869
3.	Waste Land	Nil	Nil	Nil
4.	Grazing Land	Nil	Nil	Nil
5.	Surface Water Bodies	56.17	Nil	56.17
6.	Settlements	79.18	Nil	79.18
7.	Other (Roads / Other infrastructure)	230.781	Nil	230.781

**Post Mining:**

S.N.	Land use	Plantation	Water Body	Public Use	Un-disturbed	TOTAL
<b>During Mining</b>						
1.	External OB Dump	0	0	0	0	0
2.	Top soil Dump	0	0	0	0	0
3.	Excavation	2440.55	0	0	0	2440.55
4.	Roads	0	0	30.30	0	30.30
5.	Built up area	0	0	50.94	0	50.94
6.	Green Belt	36.07	0	0	0	36.07
7.	Undisturbed Area (Under Kelo River)	0	0	0	15.42	15.42
8.	Bund			5.2		5.2
9.	Settling Pond	0	5			5.0
	<b>TOTAL</b>	2476.62	5	86.44		

viii. *Transportation of Coal: The PP submitted that the coal is proposed to transport within the outside mining lease area in the following manner:*

- *In pit: Dumpers (By road)*
- *Surface to siding: Dumpers/conveyor*
- *Siding to loading: Rapid loading system*
- *Quantity being transported by Road/Rail/conveyor/ropeway: 23.60 MTPA*
- *There are no proposed changes in transportation means.*

ix. *Legal Issues/ Violation: PP reported that there is no legal issue/violation wr.t i) Environment (Protection) Act, ii) Air(P&CP) Act, Water (P&CP), Act, Forest Conservation Act, Wildlife Protection Act, CRZ Notification, MMDR Act, Factories Act. Further, there is no court case on the project. nents*

x. *Reclamation Plan: PP submitted that the reclamation plan includes afforestation, which shall be done progressively covering an area of: 2476.62 ha at the end of mining. This will include:*

- *External dump 194.76 Ha.*
- *Plantation in backfilled area 2025.77 Ha (in new eia)*
- *Safety zone and greenbelt 36.07 ha (in new eia)*
- *Density of tree plantation (in no. of plants): 2500/Ha*

xi. *R&R Issues: PP submitted that there are total 14 villages within the mining lease area. Detailed R & R studies has been carried out by reputed institute and suggestions made by the institute meeting the "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 of Central government or Chhattisgarh State Model Rehabilitation Policy 2007.*

xii. *Baseline Data: PP submitted that the environmental baseline data was generated in the pre-monsoon from 25<sup>th</sup> March to 15<sup>th</sup> June 2024. Based on the survey conducted, the project site does not have any species which fall under the Schedule I of The Indian Wildlife (Protection) Act, 1972 or under threatened category of The IUCN Red List of Threatened Species. But within the 10 km radius of project site (in Reserve Forest patches) three Schedule-I species were recorded as per the Forest records. Wildlife conservation plan has been approved by PCCF, WL vide letter no. 494/12, dated 20.01.2021.*

xiii. Waste: The details of solid and hazardous waste generation along with its mode of treatment/disposal is furnished as below:

S. No.	Type of Waste	Source	Quantity (TPA)	Mode of Treatment	Disposal	Remarks
1	OB waste	Mining	2761 Mcum	Re-handling	Refilling of mine out area	Solid waste
2	Domestic waste	Workers & Admin office	3.76	Re-cycling	Food waste composter	
3	Sludge	STP	1.632	Re-cycling	Manure	
4	Used Oil	Mines Workshop	2224.82	Re-cycling	Through authorized Vendors/Recycler	Hazardous waste

xiv. Water Requirement: PP reported that the water requirement will be 2785 KLD and the source of water will be surface water, groundwater and mine sump water. PP submitted that there will be groundwater intersection involved and NOC for abstraction of ground water has been obtained from CGWA, new Delhi, vide letter no. CGWA/NOC/MIN/ORIG/2020/7943 and valid up to 05th May 2022 to dt. 04th May, 2022, for 1454 KLD. Renewal application has already been submitted at online portal (NOCAP) CGWA portal.

xv. Plantation: Proposed greenbelt will be developed in 36.07 Ha. A 7.5 m wide greenbelt, consisting of at least 3 tiers around mine boundary will be developed as greenbelt and green cover as per CPCB/MoEF&CC. Local and native species will be planted with a density of 2500 trees per hectare. Total no. of 5641500 saplings in 2256.60 ha area will be planted and nurtured in hectares in 32 years.

xvi. Public Consultation: The PP submitted that PH notification was published in local and english newspaper (Dainik Bhaskar & Times of India) on 25.08.2019 and public consultation took place on 27.09.2019 at the Government Primary school ground of Dolesara village in Raigarh district. Mr. R.A Kuruvanshi (ADM) was the presiding officer present at the public consultation. The major issues involved in the PH were land, employment, environment, health check-up, education etc.”

10. The EAC in its meeting held on 1-2<sup>nd</sup> July 2024, *inter alia* deliberated the following:-

*“i. The project proposal was considered and appraised by the EAC (Thermal and Coal Mining Projects) in its 58th meeting held on 23rd - 24th June 2016 wherein the Committee recommended the proposal for the grant of ToR. The ToR was issued vide letter No. J-11015/72/2016-IA. II (M) dated 8th August 2016. The validity of ToR was extended vide letter dated 5.08.2019. After the grant of ToR, PP conducted a Public Hearing on 27th September 2019. The PP then submitted the Final EIA/EMP to MoEF&CC on 23.11.2019. The proposal was considered by EAC in its meeting held during 5.12.2019 and 28-29 September 2020 wherein the EAC recommended the proposal grant of EC. EC was issued on 11.07.2022.*

*.....*

*v. PP submitted that there is no wild life sanctuary, national park or eco sensitive zone within 10 Km radius of the mine lease area. Wildlife conservation plan was prepared by Learn nature consultants pvt Ltd., Raipur. Wildlife conservation plan submitted by PP on 14.11.2019. WLCP has been approved by PCCF (WL), Raipur, Chhattisgarh dated 20.01.2021 with Rs. 344.40 Lakhs of budgetary provision. The Committee is of the view that PP shall deposit the amount to the concerned authority. Although based on the survey conducted, the project site does not have any species which fall under the Schedule I of The Indian Wildlife (Protection) Act, 1972 or under threatened category of The IUCN Red List of Threatened Species. But within the 10 km radius of project site (in Reserve forest patches) three Schedule-I species were recorded as per the Forest records. The Committees is of the view although there are no threatened species but PP shall give training/conduct awareness program for its employee/workers to protect the wildlife if any found in the project area.*

*vi. The Committee observed that the project is not located in CPA/SPA and the same is also confirmed from Carrying Capacity Study report submitted by CECB.*

*vii. The Committee observed that earlier, baseline data collection was considered Post Monsoon Season (Oct to Dec 2016) and (Nov 2019 to Jan 2020). Again for re-validation of EIA report baseline data (25th March to 15th June 2024) has been collected. The Committee is of the view the project was to be reviewed from the stage of public*

consultation but baseline data was asked to collect to get the recent environment scenario.

viii. The Committee observed that as compared to 2016 level there is some increase air pollutants but as per the results of the monitored data indicate that the ambient air quality of the region in general is in conformity with the National Ambient Air Quality Standards with present level of activities. Ambient Air Quality Monitoring reveals that; the minimum and maximum concentrations of PM10 and PM2.5 for all the 25 AAQM stations were found between 37.50 to 82.70  $\mu\text{g}/\text{m}^3$  and 18.50 to 57.60  $\mu\text{g}/\text{m}^3$  respectively. The minimum and maximum value concentrations of SO2 for all the 25 AAQM stations were found between 4.40  $\mu\text{g}/\text{m}^3$  to 25.40  $\mu\text{g}/\text{m}^3$ . The minimum and maximum value concentrations of NOX for all the 25 AAQM stations were found between 7.80  $\mu\text{g}/\text{m}^3$  to 38.90  $\mu\text{g}/\text{m}^3$ . The concentrations of CO for all the 25 AAQM stations were found between 0.30 to 1.08  $\text{mg}/\text{m}^3$ .

xiv. The Committee therefore interacted with the representatives of SPCB about the same and asked whether this mine is included in the Carrying Capacity conducted by SPCB for Tamnar Block through IIT Bhilai and IIT Bombay. The representatives of SPCB informed that the study was done for already existing mines and power and iron plants and the proposed mine was not included in it. Therefore, the Committee suggested to SPCB to request IIT or some other reputed government institute to conduct a carrying capacity study, which should include not only the present operating mines and industries but also the proposed industries and mines coming up in the area, along with mitigative measures which should be taken for the same. The Committee observed that "Carrying Capacity and cumulative impact assessment study with its mitigation measures by also taking into account the impact of the proposed project on the local environment in Tamnar block in District Raigarh, Chhattisgarh" undertaken by Chhattisgarh Environment Conservation Board (CECB), Raipur was carried out by the IIT-Patna. The Committee also interacted with the Dr. Amit Kumar Verma, expert from IIT-Patna who briefed the Committee about the study report. The Committee observed it has mentioned in the report that in April 2023, a carrying capacity study was carried out by IIT Bhilai and IIT Bombay in Raigarh and Gharghoda Blocks of Raigarh District, Chhattisgarh State, in response to a request and invitation from the Chhattisgarh Environment Conservation Board (CECB). IIT-Patna prepared carrying

capacity report comprising the region along the Gare Palma and assesses the impact of operational mines and the upcoming project in the surrounding area of the Gare Palma region of Tamnar block. The study consisted of the air quality index based on the regular time air monitoring, water quality of the region, water quality index, soil quality of the region and the ecological impact due to the operational and proposed mines. IIT-Patna team also reviewed carrying capacity report, prepared by IIT-Bhilai and Bombay along with supplementary data study report on socio-economic status, hydrology data, ecology conservation plan and post mining ecological restoration plan submitted by Entrepreneurship Development Institute of India (EDII), Ahmedabad and IIT (ISM), Dhanbad.

xv. The Committee observed that carrying capacity report concluded that in Tamnar block, the concentration of PM, SO<sub>2</sub>, and NO<sub>x</sub> falls comfortably within the acceptable limits. Nonetheless, the RSPM levels in the region are close to the highest allowable limit for an industrial zone. Particulate matter could potentially hit its peak level in the future because of build-up. Hence, more steps need to be taken from the environmental management plan to improve climate change and decrease industrial pollution. Further, in the recommendation it has mentioned that The Carrying Capacity assessment conducted in Tamnar of Raigarh District, Chhattisgarh State, showed that the region still has capacity for PM, SO<sub>2</sub>, NO<sub>x</sub>. Yet, the Tammar block is getting closer to exceeding the maximum pollution concentration limit for Particulate Matter because of poor road conditions and higher levels of industrial activity like coal and ash transportation. Additionally, the following points have been observed that could potentially be incorporated into the action plan.

a) Coal and ash transportation is not permitted on any village road. All industrial roads need to be paved with concrete/asphalt and properly maintained with timely repairs. Roadside plantation needs to be done.

b) Regular water sprinkling work to be taken place all industrial roads.

c) Industries, power plants, and other establishments in the area with mine areas, coal handling units, and ash handling units must have a wheel washing system at all entrance and exit points.

d) Railway sidings need to adhere to CPCB regulations and should include rain guns, windbreaking walls, sprinklers, parking lots, access roads, drainage facilities, settling pits, etc.

e) If coal is being transported by road, transporters should be charged a surcharge based on their distance and time travelled for the purpose of road maintenance and repair.

f) CAAQMS must be installed in almost each village of Tamnar block and consistently connected to the state pollution control board according to CPCB guidelines. During the meeting the committee discussed the report with Dr. Amit Kumar Verma and asked about the impact on human health. He informed that as per the report the Air Quality Index for the study area is classified as good, satisfactory, and moderate based on data collected during baseline studies. As a result of implementing the project and the activity of cluster mine, the AQI index in some locations will shift from satisfactory to moderate. The health effects of this AQI are minor and may only result in discomfort for individuals who are sensitive.

xvi. The Committee observed that Hon'ble NGT in its Judgment dated 15.01.2024 *inter-alia* made certain observation about the Hydrogeological Report, impact of mined drainage & diversion of nallas and study of flood level of Kelo River and impact if any. The Committee previously was of the view that the Hydrogeological study was done by NABET Accredited consultant, but Hon'ble NGT observed some shortcomings in the same, particularly concerning high flood levels and mentioned in its judgement that "Moreover, high flood level of the river has been taken for a very small period of 1996-97 to 2002-03, though it should be of the period of last 50 to 100 years." asked the PP to get the revised study done from IIT (ISM) Dhanbad and the concerned institute shall ensure that observation of Hon'ble NGT and applicants shall be addressed in the proposed study report. As desired by the EAC, the PP got the Hydrology Study and Embankment Design done from IIT (ISM) Dhanbad. During the meeting the Committee also interacted with Dr. Sunil Kumar Gupta who briefed the EAC about the report and recommendations.

xvii. The Committee observed, as per the report of IIT – ISM Dhanbad, observed that there are two major Nalas i.e. Nala A situated in West and Karnar Nala B in the East side of the Kelo river. The report suggests that, as these Nallah fall within the mining lease area and will be impacted by the mining activities, it is proposed to divert these

*Nala along the periphery of the lease area back into the Kelo river to minimise the impact and facilitate uninterrupted activities in the study area. The report suggests that it is proposed to construct a garland drain along the northern boundary line (within the block area) to join the same into Kelo river located in its east side. The diverted nala section should be lined and the banks should be fully protected by stone pitching on either side. Also, Karnar Nala is a non-perennial drain, with limited discharge during the monsoon period. The flow regime will be subcritical, which means it will not require any installation of energy dissipation structures within the channel due to subcritical flow in the diverted channel. According to the report, mining activities in the Gare II coal block are not expected to directly impact the path of the Kelo River as the course of river will be maintained to its natural course by restricting the mining operation at least 100 m away from both sides of the bank as per the guidelines (DGMS).*

*xviii. The Committee observed that, as per report the increased siltation in the Kelo River due to material handling activities within the mine lease is a real possibility. Studies carried out by CWPRI in the Mahanadi basin have given a value of annual average sedimentation load as 466 tonnes/sq.km for the Mahanadi basin. The calculations done for the various land uses of the mine clearly indicates that the siltation from the mine lies well below the average limits given for this Basin. The Committee is of the view that the measures suggested in the report to mitigate the siltation on the Kelo River and its catchment must be followed by the PP which includes i) The mining activities will be restricted by maintaining a minimum distance of 100 m between the riverbank and mine pit boundary, avoiding disturbance to the riverbed and natural soil and aquifer characteristics, ii) The garland drains shall be provided for collection of surface runoff at the peripheral boundary of embankment which will also arrest the sediment load, by settling, and treating the water before releasing it back into the Kelo River. iii) The seepage water from the Kelo River to the mine pit will be collected into the mine pit and pumped to the surface and after proper treatment the same will be released for the possible secondary utilization by the local communities. iv) Implementing strict material handling and sediment control measures, and regularly monitoring the river's flow, water quality, and sedimentation levels. v) By implementing these*

*mitigation measures and continuously monitoring the Kelo River's health, the potential impacts of the mining activities can be minimized, ensuring the river's long-term sustainability and its ability to support the dependent ecosystems and communities.*

*With regard to observation of Hon'ble NGT that "Siltation in the river will also impact its flow and disturb its path", the Committee observed that, IIT-ISM Dhanbad proposed that the mining activities be restricted by maintaining a minimum distance of 100 m between the riverbank and mine pit boundary, avoiding disturbance to the riverbed and natural soil and aquifer characteristics. Report also suggested implementing strict material handling and sediment control measures, and regularly monitoring the river's flow, water quality, and sedimentation levels. In addition to this, the report suggested that the garland drains shall be provided for collection of surface runoff at the peripheral boundary of embankment which will also arrest the sediment load, by settling, and treating the water before releasing it back into the Kelo River.*

*The Committee also noted that report provides the impact of seepage of Kelo River into the mine working area wherein it has mentioned that "Detailed analysis of seepage and mine water generated, it is evident that the anticipated amount of water to be dewatered from the mine on a daily basis comes out to be very less as compared to the mean daily flow of Kelo River, which is going to remain less than a maximum value of 0.12% in the near future (till the year 2028-29). The detailed estimate on the mine water seepage and dewatering is submitted. The impact of seepage and mine dewatering on the Kelo River flow will be negligible.*

*The Committee is observed in the report submitted by IIT-IIS (Dhanbad) that, the mean discharge of the Kelo river for the period between 1958 to 2023 is 15,50,880 KLD. Over analysis of the impact of mining on the flow of Kelo river dictated that the total water requirement for the mining related activities is 2785 KLD. Out of which 1785 KLD is fresh water and 1000 KLD will be fulfilled from recycled water. Further, out of 1785 KLD water, 1454 KLD water will be met from groundwater with due permission of CGWA. The remaining 331 KLD of freshwater will be taken from Kelo river which is merely 0.021% of the mean daily discharge of Kelo river. This signifies very less impact on the flow of Kelo river. Further, IIT ISM team shown "anticipated amount of water to be dewatered from the*

mine, which is going to remain less than a maximum value of 0.12% in the near future (till the year 2028-29)" which shows that the impact of seepage and mine dewatering on the Kelo River flow will be negligible.

The Committee observed that w.r.t observation of Hon'ble NGT for making arrangement for embankment all along Eastern and Western bank of Kelo river, affecting natural flood plain zone of the river. The PP submitted that in the report submitted by IIT ISM that the team proposed embankment along the eastern and western bank of Kelo river. DGMS mandated only 15 meters from either bank of a river, however IIT (ISM) team also proposed that a minimum distance of 100 m between the river and the mine pit boundary shall always be maintained at different sections of the river. In the said report IIT ISM team has proposed a detailed design for the embankment along the Kelo river and natural water flow. It also has been recommended that the height of the embankment shall vary from 2m to 9m on the right bank and from 4m to 9m on the left bank. It is further recommended to strengthen the embankment on the riverside by placing large boulders in wire net bags. The embankment will also be stabilised by road rollers and vibrators followed by plantation of grass and bushes. The HDPE geomembrane lining is to be provided in the embankment. The apron provided at the base of the embankment will help in considerably reducing the seepage through the base of the embankment. In addition, the central core layer will have interlocking arrangement at the base to avoid seepage from the base.

The Committee observed that w.r.t to observation of Hon'ble NGT i.e "High flood level of the river has been taken for a very small period of 1996-97 to 2002 03, though it should be of the period of last 50 or 100 years". In this regard PP submitted that Long term Rainfall data of the gauge station in Raigarh, and the discharge values (inflow to the river from the reservoir) collected and used from 1958 to 2006 (48 years) to develop a rainfall-runoff model. EE, Kelo project Yojna also provide a letter for the same. Further, due to unavailability of discharge value from year 2007 to 2023, the total runoff volume was further used to predict the discharge values. Hence the runoff for this period was determined by developing a statistical rainfall-runoff model from annual rainfall data which was available from 1958 to 2023.

*In addition to the observations of NGT, the Committee also deliberated on the groundwater in the said area. The report of IIT-ISM Dhanbad states, that to study the impact of mining on the water quality, the groundwater samples were collected from 14 nearby villages of GARE-PALMA II, Coal Block mining region and also from u's and d's of Kelo river. Different physico-chemical parameters were assessed. These parameters were then integrated to develop a water quality index (WQI), through which the drinking water suitability of groundwater is determined. The analysis of WQI values of the groundwater samples shows that all the samples fall in the category of excellent to Good, which means that groundwater of the region has not experienced any significant deterioration on account of mining activities. The pH of most of the water samples lies in the permissible limit as prescribed by BIS showing that mine related seepage is not occurring in the groundwater table of the region. Some samples have moderate turbidity values while the other major parameters fall under the permissible limits. This means that "muddy" nature of the groundwater can be tackled by simple filtration units without requiring any advanced filtration system. The water quality of the surface water samples collected from the upstream and downstream section of the river falls in the "Good" category.*

*The Committee also referred to the Water quality report submitted by NEERI, wherein, at some of the locations, values of arsenic, nickel, iron, manganese, fluoride and such other minerals were found beyond the permissible limits. However, as per the EIA report, Hydrogeological study conducted by IIT (ISM) Dhanbad, carrying capacity study conducted by IIT Patna no such observation was made. The Committee also had gone through the CGWA report 2020, prepared for Tamnar block Raigarh district, as per no arsenic contamination in groundwater was found in any sample collected in Tamnar block. The committee also reviewed the NEERI report for the Tamnar block wherein certain groundwater parameters indicate toxic levels. However these cannot be ascribed to the proposal under consideration since the mine has not started operations. Further, the Committee is of the view that PP shall monitor all these parameters, take mitigation measures if required and submit a report to the concerned RO of MoEF&CC in six monthly report. Safe drinking water shall be supplied to all residents of the ML area.*

*The Committee is of the view that the PP shall implement the recommendation made in the report of IIT (ISM) Dhanbad in addition to this the Committee is of the view that PP shall optimize the water requirement and also augment or harvest the water by rainwater harvesting measures. PP shall monitor the water quality surface as well as groundwater for the presence of heavy metals. In addition to this, a water audit needs to be done every year for the reduction of specific water consumption by various means. The committee observed that all points w.r.t hydrology raised in the judgement of Hon'ble NGT have been adequately addressed in the above additional study by IIT-ISM Dhanbad.*

*.....X.....X.....X.....X.....*

*xx. Further, as desired by the Committee, PP submitted the Health Assessment report for study carried out by ICMR in the Tamnar area during the year 2019-2020 and the report on Anticipated Health Impact Assessment and Recommendations by CSIR CIMFR (June24). The study of CSIR CIMFR was carried out with the objective to conduct the study for anticipated impact of the project on the health of people living in the surrounding area, suggest mitigation measures and offer comments on the ICMR report particularly with reference in this study on the predicted impact of the project on the health of people living in the surrounding area of Gare Palma-II Coal Mine Project in Tamnar, Raigarh, Chhattisgarh. During the meeting PP informed the Committee that Prof Santosh Kumar Ray and Prof Bhanu from CIMFR are available online to discuss the report on Anticipated Health Impact Assessment and Recommendations by CSIR-CIMFR. It was informed to the committee that study envisages the a) The project raises concern about water contamination, alteration of geomorphology, soil fertility loss, food contamination, and ecosystem service disruption. Additionally, occupational hazards include respiratory issues, physical injuries, noise-induced health problems, chemical exposure, psychosocial concerns, and sanitation issues, b) Suggested mitigation measures include dust control, transportation optimization, health screenings, ergonomic assessments, chemical substitution, stress management programs, emergency response plans, water management practices, land reclamation efforts, and community engagement initiatives, c) The primary focus is to meticulously assess the potential ramifications of mining activities on the health concerns of the immediate*

stakeholders, namely employees and PAPs, and to devise proactive, precautionary, mitigative, and adaptive measures accordingly, d) Mining operations inherently entail various occupational health hazards, including exposure to dust, noise, and hazardous chemicals. Dust generated during mining activities poses respiratory health risks, potentially leading to conditions such as pneumoconiosis and chronic obstructive pulmonary disease (COPD) among workers, e) Similarly, prolonged exposure to high noise levels can result in hearing loss and other auditory disorders, f) Furthermore, the disturbance of land and soil fertility loss can impact agricultural productivity, posing additional challenges to the local community's livelihoods, g) The project's proximity to water bodies raises concerns regarding potential water contamination, which could have far-reaching ecological consequences, h) Due to the large-scale operations proposed by the GPII project, there is a chance of potential water contamination. Activities such as mining, waste disposal, and transportation logistics may introduce pollutants into local water bodies, i) To mitigate these occupational health issues and hazards, comprehensive safety measures and health protocols must be implemented throughout the project lifecycle. This includes providing personal protective equipment (PPE), conducting regular health screenings, ensuring proper ventilation in underground mines, implementing ergonomic work practices, promoting mental health awareness, and engaging in community health programs to address the broader health impacts of mining activities. Additionally, ongoing monitoring and evaluation of occupational health risks are essential to adapt and improve safety measures as needed, j) While the project aims to meet India's growing coal demands, bringing-in economic activities and developing a livelihood facilitating ecosystems in the area however, it has also risk of substantial environmental and occupational health concerns. The study outlined potential risks such as water contamination, alteration of geomorphology, soil fertility loss, food contamination, and disruption of ecosystem services. Similarly, the risk of occupational health contains respiratory hazards, physical injuries, noise- induced health issues, chemical exposure risks, psychosocial health concerns, air and water pollution, and emergency response risks for workers and nearby communities, k) ICMR health vulnerability concerns are indicative of its skewness towards lifestyle and psychosomatic dimensions leading to diseases

like high blood pressure (BP), diabetes, etc. This may be addressed by mitigating their stress component, which occurs due to idleness, meagre avenues of economic activity, and a lack of livelihood opportunities leading to mundane life quality, l) As stated above, the mine/project may only be consented towards its go ahead if and only if it is to be carried in a sustainable manner. Additionally, towards the health concerns of its people and larger stakeholders, project proponent must develop a healthy ecosystem beyond mandatorily required dispensary and occupational health centres. This may include developing a multi-speciality hospital with modern instruments and medical professionals to cater the health vulnerability of the people and community living in the area and vicinity, and m) Ultimately, a collective effort involving government agencies, industry stake holders, local communities and health professionals is essential to ensure responsible management of the mining project and preservation of human health and environmental integrity. The expert of CSIR-CIMFR also briefed the Committee about the recommendations. The Committee observed that the recommendation of CSIR-CIMFR are as follows:

a) Design and operate the mine with a focus on minimizing dust generation during coal and Overburden (OB) production processes. Employ advanced technologies and engineering solutions to mitigate dust emissions at the source.

b) Implement transportation methods that prevent the exposure of dust to the ambient air. Utilize In-Pit Crushing and Conveying (IPCC) or High Angle Conveying (HAC) mechanisms for material handling and transport to minimize airborne dust.

c) Aim to transform the mine into a seldom blast and preferably dumper-free opencast mining by adopting cutting-edge technology for coal production, crushing and transport. This approach not only reduces dust emissions but also enhances work place ergonomics, operational efficiency, health hygiene and safety.

d) Implement a closed transportation system utilizing pipe conveyors or enclosed conveyors. This approach ensures that material transport is contained within a closed system, minimizing the dispersion of dust and pollutants into the surrounding environment.

e) Implement a comprehensive green belt initiative, incorporating dense vegetation surrounding the mine site. This strategic green belt will act as a natural barrier, effectively reducing dust dispersion and

*minimizing noise pollution, thus mitigating the environmental impact on the surrounding community.*

*f) Mandate regular medical examinations, including spirometry tests, for all workers to monitor lung function and detect early signs of respiratory diseases. Conduct training sessions on proper respiratory hygiene and cough etiquette to prevent the spread of respiratory infections among workers.*

*g) Install proximity detection systems on heavy machinery to alert operators of nearby workers and prevent collisions and crush injuries. Establish designated walkways and traffic zones within the mining site to separate pedestrian and vehicle traffic and reduce the risk of accidents. Conduct ergonomic assessments of workstations and equipment to identify and mitigate ergonomic risk factors contributing to musculoskeletal injuries.*

*h) Provide Personal Protective Equipment (PPE) to all employees to mitigate residual impacts effectively. Ensure that PPE kits are regularly refreshed and samples are periodically tested to maintain their effectiveness in safeguarding the health and safety of workers against any potential hazards encountered during mining operations.*

*i) Implement a comprehensive hearing conservation program, including annual audiometric testing and noise exposure monitoring for all workers. Utilize advanced noise control technologies such as silencers, mufflers, and acoustic enclosures to reduce noise emissions from equipment and machinery. Provide regular training sessions on the proper use and maintenance of hearing protection devices to ensure maximum effectiveness and compliance.*

*j) Substitute hazardous chemicals with environmentally friendly alternatives wherever feasible to minimize the risk of chemical exposure to workers and the surrounding environment. Implement a chemical management system to track the handling, storage, and disposal of hazardous substances and ensure compliance with safety regulations. Conduct regular inspections and audits of chemical storage areas to identify and address potential leaks, spills, or contamination risks.*

*k) Offer stress management workshops and resilience training programs to help workers cope with the demands and challenges of mining work. Establish a peer support network or buddy system to encourage social connections and provide emotional support among*

workers. Promote work-life balance initiatives, and recreational activities to enhance overall well-being and job satisfaction.

l) Develop and regularly update emergency response plans and procedures to address potential mine accidents, including fires, explosions, and collapses.

m) Conduct emergency response drills and simulations involving both onsite personnel and local emergency services to ensure readiness and coordination in the event of a crisis.

n) Provide specialized training for designated emergency response teams to effectively handle emergency situations and assist with rescue and evacuation efforts.

o) Implement robust water management practices, including regular monitoring of water quality parameters such as pH, turbidity, and heavy metal concentrations.

p) Implement a zero-water discharge policy and establish water bodies within the vicinity to facilitate the treatment and provision of water for the local community. Install sedimentation ponds and filtration systems to capture and treat runoff from mining activities before it enters local water bodies.

q) Collaborate with local communities and regulatory authorities to establish a comprehensive water monitoring program to detect and mitigate any signs of contamination promptly.

r) Implement land reclamation and rehabilitation measures, to restore disturbed areas and minimize erosion and sedimentation.

s) Establish buffer zones and conservation areas around sensitive ecological habitats to preserve biodiversity and ecosystem services in the surrounding area. Address: IA Division, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh New Delhi - 110003 IA/CG/CMIN/466451/2024 Page 15 of 38 52

t) Conduct regular soil sampling and analysis to assess nutrient levels and soil health parameters and guide appropriate remediation and restoration efforts.

u) Collaborate with local agricultural extension services and farmers to promote sustainable land management practices and mitigate the impact of mining on agricultural productivity.

v) Establish a systematic approach to managing Overburden Dumps, Coal Dumps, Spoil Heaps, Reject Dumps, and Tailings Dumps to ensure minimal impact on soil and land fertility. Adhere to industry best practices and regulatory guidelines when siting and managing

these dumps to safeguard soil quality and preserve land fertility throughout the mining operation's lifecycle.

w) Provide training and support to local farmers on safe agricultural practices, including proper irrigation techniques and soil management strategies.

The Committee asked the PP about a comparison of diseases in coal bearing area and non-coal bearing area. PP vide letter dated 05.07.2024 submitted village-wise data of diseases occurred in last three years from Gharghoda area (Non-Coal bearing area) & last one year (2023-24) from Tamnar area (Coal bearing area), obtained from Chief Medical Health Officer, Raigarh District. From the data submitted, it is observed that major diseases occurred in non-coal bearing area are TB, Leprosy, Sicle and Diarrhoea. No case has been reported of Silicosis. For coal bearing area major diseases are TB, Sickle cell, Diarrhoea and few cases of Malaria were found. It can be seen from above that the disease occurred in the coal bearing and non-coal bearing area are similar which shows that coal mining does not have much impact on the occurrence of diseases in the area.

The Committee observed that although there is no mining-specific disease in the data given by local health authorities but PP shall organise medical health camps to monitor the health status of the nearby community to keep a check on any mining-induced disease. Further, the Committee is of the view that PP shall provide free health facilities, medicines etc. to PAFs and nearby communities. Additionally, financial assistance is to be provided for critical illnesses such as cancer, organ failure/transplant etc. under CSR budget on a case-to-case basis. The Committee is of the view that these are in addition to the Occupational health plan required for mine workers as per the requirement of DGMS.

.....x.....x.....x.....x.....

xxiii. The Committee also deliberated on the site visit report dated 1/07/2024 submitted by the sub-committee constituted for this purpose vide order dated 17/05/2024. It is revealed from the report that the mining operation is yet to be started for this mine. The sub-committee also visited the Kelo River and in its report suggested that it should not be diverted. The report also mentioned the other mine which is operating at a much lower capacity than the sanctioned capacity. The report also suggested conducting a carrying capacity

*study and health study. The report concluded that the project may be considered for grant of EC when all the conditions/suggestions/requirements asked by the sub-committee will get completed. The Committee observed that PP has submitted the Carrying Capacity Report and Health Report. Further, there is no diversion of the Kelo River.*

*xxiv. A site visit by a sub-committee of the EAC for detailed on-site appraisal was done from 17.05.2024 to 19.05.2024. The report of the site visit was discussed by the EAC as a part of the appraisal process. Comments received from the representative of RO, Raipur vide letter dated 27/06/2024 were also brought to the notice of the Chairperson Subcommittee who vide letter dated 10/07/2024 confirmed that the report submitted on 1/07/2024 is the final report. The Committee therefore accepted the report, which based on the ground assessment has recommended to EAC that EC may be granted.*

*xxvi. The EAC has also taken into consideration additional information for appraisal such as additional hydrogeological study; health impacts of the proposed mine including health study which also took into account the ICMR study and the information about the prevalent local disease data of the area supplied by state health authorities (as asked for by the EAC); additional carrying capacity study; revised EMP/ EIA; fresh baseline data; mathematical modelling using TMY data and site specific data rather than standard data; Comprehensive Environmental Pollution Index (CEPI data) & CAAQMS data; socio-economic study; Ecology of the surrounding area and post-mining ecological restoration; NEERI report; site visit and public hearing/consultation process including NOC from various gram sabhas (based on gram sabha meetings conducted for FC clearance) while re-appraising this proposal.*

11. Based on the discussions held and the documents submitted, the EAC recommended the proposal for Environment Clearance of Gare Palma Sector II Coal Mine Project of 23.6 MTPA Capacity (22.0 MTPA Opencast + 1.6 MTPA Underground) within the mining lease area of 2583.487 Ha located at Thili Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, JhinkaBahal, Dolesara, Bhalumura, Sarasmal and Libra villages,

Tamnar Tehsil, Raigarh District, Chhattisgarh State by M/s Maharashtra State Power Generation Company Ltd (MAHAGENCO) under EIA Notification, 2006 (as amended) subject to the compliance of the specific conditions in addition to the Standard EC conditions. The MoEF&CC has examined the proposal in accordance with the provisions contained in the Environment Impact Assessment (EIA) Notification, 2006 & further amendments thereto and based on the recommendations of the EAC hereby accords Environmental Clearance to M/s Maharashtra State Power Generation Company Ltd (MAHAGENCO) for Gare Palma Sector II Coal Mine Project of 23.6 MTPA Capacity (22.0 MTPA Opencast + 1.6 MTPA Underground) within the mining lease area of 2583.487 Ha located at Thili Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, JhinkaBahal, Dolesara, Bhalumura, Sarasmal and Libra villages, Tamnar Tehsil, Raigarh District, Chhattisgarh subject to compliance of the additional Specific Environmental safeguard Conditions in addition to the standard EC conditions. The proponent shall obtain all necessary clearances/approvals that may be required before the start of the project. The Ministry or any other competent authority may stipulate any further condition for environmental protection.

12. The EIA Notification, 2006, provides for a Public Consultation, which is a process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B1 projects or activities shall undertake Public Consultation. Pertinently, since the Gare Palma mine project falls under Schedule-1 of the EIA Notification, 2006, "Public Consultation" is a pre-requisite and is mandatorily required to be conducted before the grant of prior Environment Clearance for the Project. The relevant portion of the

EIA Notification, 2006, dealing with the Public Consultation Process is being referred to hereinunder:-

**“7. Stages in the Prior Environmental Clearance (EC) Process for New Projects: -**

*7(i) The environmental clearance process for new projects will comprise of a maximum of four stages, all of which may not apply to particular cases as set forth below in this notification. These four stages in sequential order are: -*

*Stage (1) Screening (Only for Category 'B' projects and activities)*

*Stage (2) Scoping*

**Stage (3) Public Consultation**

*That Clause 7 of the EIA Notification, 2006 provides for Public Consultation. The relevant extract of the Public Consultation as provided under the EIA Notification, 2006 reads as under:*

**III. Stage (3) - Public Consultation:**

*(i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B projects or activities shall undertake Public Consultation....."*

*(ii) The Public Consultation shall ordinarily have two components comprising of:-*

*(a) a public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons;*

*(b) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.*

*(iii) the public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned in the specified manner and forward the proceedings to the regulatory authority concerned within 45(forty five) of a request to the effect from the applicant.*

*(iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days.*

*(v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.*

*(vi) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix IIIA by the applicant along with a copy of the application in the prescribed form, within seven days of the receipt of a written request for arranging the public hearing including Confidential information non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.*

*(vii) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during*

*this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.”*

13. A bare perusal of Clause 7(i) of the EIA Notification, 2006 shows that Public Consultation primarily comprises of (i) conducting the public hearing either at the site or in the close proximity of the said site in order to ascertain the concerns/complaints/issues of the local people likely to be affected; and (ii) obtaining responses in writing from other concerned persons who may have a stake in the environmental aspect of the project or activity, which material environmental concerns concerns/issues etc. are then addressed by the respective applicant by making appropriate changes in the draft EIA and EMP as enumerated under Clause 7(vii) of the EIA Notification, 2006. Pertinently, the EIA Notification, 2006 also provides for the procedure to be followed while conducting a Public Hearing. Reference in this regard is being made to APPENDIX-IV of the EIA Notification, 2006, which details out the following:-

*“i. Clause 1 thereof provides for the Public Hearing to be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District -wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC).*

*ii. Clause 2 provides for the Process to be followed while conducting the Public Hearing. The respective Applicant is required to make an application to the Member Secretary of the SPCB or Union Territory Pollution Control Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period, including at least 10 hard copies and an equivalent number of soft (electronic) copies of the draft EIA Report prepared strictly in*

*accordance with the Terms of Reference communicated after Scoping (Stage-2) in English and in local language. The said EIA Report along with the Summary EIA is then forwarded to the offices of District Magistrate, Zila Parishad or Municipal Corporation, District Industries Office and Concerned Regional Office of the Ministry of Environment and Forests.*

*iii. The next step is to publicise about the Public Hearing. The authorities in receipt of the EIA Report etc. then widely publicise and make the EIA Report publicly available within it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. Pertinently, the said EIA Report is made available for inspection electronically or otherwise to the public during normal office hours till the Public Hearing is over.*

*iv. Subsequent thereto, the concerned SPCB or UTPCC authorities makes requisite arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or public libraries or panchayats etc.*

*v. Clause 3 provides for the Notice of the Public Hearing, which provides for fulfilling the following requirements for giving the notice for the Public Hearing:*

*a. The Member Secretary of the concerned Pollution Control Board, within 7 days of the date of receipt of the draft EIA Report from the project proponent, after finalising the exact date and time for the conduct of public hearing (which cannot be changed unless some untoward emergency situation occurs), and advertise the same in one major National Daily and one Regional vernacular Daily/Official State Language. The said advertisement shall also inform the public about the places or offices where the draft EIA report and the Summary Environmental Impact Assessment report would be accessible for the public before the public hearing is held.*

*b. It is also imperative that a minimum notice period of 30 (thirty) days shall be provided to the public for furnishing their responses.*

*vi. In terms of Clause 4 thereof, the District Magistrate or his or her representative not below the rank of an Additional District Magistrate*

*assisted by a representative of SPCB or UTPCC is mandated to supervise and preside over the entire public hearing process.*

*vii. Clause 5 mandates video recording of the entire public hearing proceedings either by the SPCB or the UTPCC. Further, a copy of the said video tape along with the public hearing proceedings is required to be then forwarded to the concerned Regulatory Authority.*

*viii. Clause 6 of the Appendix IV provides that the attendance of all those who are present at the public hearing venue has to be noted and annexed with the final proceedings. Further, a statement of the issues raised by the public and the comments of the respective project proponent shall also be prepared by the SPCB in the local language or the Official State language, as the case may be, and in English and annexed to the proceedings. The summary of the public hearing proceedings along with the accurately recording of the views and concerns expressed by the representative of the SPCB, is to be read over to the audience at the end of the proceedings explaining the contents in the vernacular language, and the agreed minutes shall be signed by the District collector/Deputy Commissioner Magistrate/District or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned.*

*ix. Clause 7 mandates that the public hearing is required to be completed within a period of 45 (forty five) days from date of receipt of the request letter from the respective applicant.”*

14. That the Public Consultation Process for the Gare Palma II, was carried out in strict accordance with the requisites of the EIA Notification, 2006 in as much as:-

*“a. The Public Hearing was held under the Chairmanship of ADM, Raigarh, Chhattisgarh on 27.09.2019 till 5:00 PM, wherein 58 people signed up for attendance and contributed their views on the Coal Mining Project. Majority of People who participated in the Public Hearing supported the Project.*

*b. The public hearing was duly notified in national and regional daily newspapers as well as advertised on the website of the Appellant. It is not the case of the Appellants herein that they were not allowed to participate in the public hearing to raise their grievances. As a matter of fact, The Appellant No.4 not only participated in the public hearing held on 27.09.2019 but also raised all the grievances and issues*

*likely to be faced by her. It is not the case of the Appellants herein that they were not allowed to either participate or raise their concerns during the Public Hearing.*

*c. In so far as the findings relating to non-consideration of 1000 people are concerned, as evident from Public Hearing Report dated 16.10.2019, the Public Hearing proceedings started at 11:00 am, wherein multiple announcements were made between 1 PM to 4 PM (including by the ADM himself) inviting project affected persons to give their views on the Coal Project. However, other than 58 participating persons, no other person came up and participated in the Public Hearing process.*

*d. Various concerns and grievances raised by the people attending the public hearing were taken note of and appropriate response and solution to the said grievances was given by the Answering Respondent. The Respondent, in accordance with the terms of the EIA Notification, 2006, had uploaded the draft Environment Impact Assessment Report for public scrutiny before the Public Hearing, briefed the general participating public about the mining Project and apprised them of its effects on the environment, mitigation methods that shall be undertaken and other issues that were important for the common public affected by the Project.”*

The submissions of the learned Counsel for the Project Proponent are that on the basis of above, it can safely be concluded that the said Public Hearing was held in absolute accordance and strict compliance with the terms of the EIA Notification, 2006.

15. A bare perusal of the judgment dated 15.01.2024 passed by this Court in the earlier petitioner challenging the grant of EC, shows that this Hon'ble Court had only been pleased to direct that the matter be 're-examined from the stage of conducting public consultation afresh. The relevant extract/operative portion of the judgment dated 15.01.2024 reads as under:-

*"Appeal is accordingly allowed. EC dated 11.07.2022 granted to respondent 4 is quashed. MoEF&CC may re-examine the matter from the stage of conducting public consultation afresh and in case, other*

*appropriate study material is placed on record by proponent, the same may be considered/appraised and a fresh order may be passed by MoEF&CC with regard to prior EC in accordance with law and existing state of environment and ecology."*

16. Contentions of the Project Proponent are that the NGT thus, never directed conducting a fresh public hearing but only directed the MoEF&CC to re-examine the entire public consultation process afresh subsequent to which fresh orders were directed to be passed after due perusal of any additional documents that the Project Proponent places on record. Thus, there was no mandate/requirement for the MoEF&CC to conduct a fresh public hearing, as is being alleged by the Appellants.
17. Pertinently, Public hearing is conducted in terms of the EIA Notification 2006 by the State Pollution Control Board and the citizens are required to participate in the same and raise their objections or support the project as the case may be. There is no right available to any person, including the Appellants, to either object to the conduct of public hearing or further attempt by taking law in their own hands to disturb and avoid the proceedings in the public hearing. The right to protest, assuming this will not extend to blocking persons performing their duties including statutory duties of conducting of public hearing. It is only a peaceful protest, which is recognised by law so long as there are no other violations. Indeed, in the present case in the public hearing conducted large number of people participated and few even put forward their views. The contentions raised by the Appellants that the Public Hearing was flawed and not held as per procedure is baseless, contrary to the records and concocted. As a matter of fact, even the Appellant attended the said public hearing and got their respective objections recorded. All the concerns raised pertained majorly on public health and livelihood which have been duly addressed in the EIA

Report of the Respondent, duly examined by the EAC and stipulated in the EC Conditions for which the Answering Respondent is bound to file half yearly compliance report with the EC Conditions. Finally, the EAC (being the expert body) after detailed deliberations, found the response of the Respondent to its satisfaction and had recommended the grant of EC for the Coal Mine Project in favour of the Respondent to MoEF. The EAC, consequent to the directions passed by this Ld. Tribunal vide judgment dated 15.01.2024, did re-examine the entire process of the Public Hearing conducted in the year 2019, including re-examination of the videography and other relevant documents by the sub-committee formed by the EAC, and after detailed deliberations, finally found that the Public Hearing was conducted in accordance with the terms of the EIA Notification, 2006.

18. Learned Counsel for the Respondent has raised the issue of limitation and argued that this Appeal is time barred. The contentions of the Respondents are that the Appellants have failed to give any just and sufficient cause to explain the cause of the said delay in filing of the present Appeal. On the contrary, the Appellants have made false and frivolous statements in the captioned application to cover up for their failure to file the appeal within the statutory period. The reasons stated in the application are in general terms and no real/sufficient or credible reasons have been provided by the Appellants seeking condonation of delay in filing the captioned appeal. Accordingly, the said Appeal is barred by limitation, as prescribed under the provisions Section 16 of the NGT Act in as much as the Appellants have failed to detail out any sufficient cause for the said delay. It is submitted that the Appellants have made all baseless and unsubstantiated averments in order to overcome the inordinate delay in a time barred Appeal, which was filed only on

06.11.2024 i.e. after 54 days over and above the period of the statutory period of 30 days as stipulated under Section 16 NGT Act. Hence, the present Appeal is liable be dismissed on this ground alone.

19. It is settled law that where a case has been presented in the court beyond limitation, the petitioner/appellant therein has to explain the Court as to what was the "sufficient cause", which means an adequate and enough reason which prevented him to approach the Court within limitation. It is also settled law that that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. The Hon'ble Apex Court in *Ajay Dabra v. Pyare Ram* reported in 2023 SCC Online SC 92 has held as follows:-

*"13. This Court in the case of Basawaraj v. Special Land Acquisition Officer [(2013) 114 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:*

*" 15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."*

14. *Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant."*

20. It is further argued that the Appellants were well aware about the EAC meeting held on 22.07.2024 wherein the grant of EC to the Answering Respondent was recommended. The EAC Minutes of Meeting dated 22.07.2024 were uploaded on the PARIVESH website, thus the recommendation of the grant of EC to the Answering Respondent was in the public domain and well within the knowledge of the Appellants. Thus, the Appellants were well-aware about the grant of the EC to the Respondent since 22.07.2024 and it cannot be now argued that the Appellants took time to collect, collate and prepare to challenge the grant of EC after the Appellants gained knowledge about the grant of EC on 22.08.2024. Once the recommendation of the grant of EC was in public domain, the Appellants had more than 20 days before the grant of EC on 13.08.2024, to collect and collate the documents for challenging the said EC before this Tribunal, as post recommendation by the EAC, grant of EC is merely a formality and that as per clause 15(i) of the impugned EC dated 13.08.2024, the Project Proponent i.e. Respondent No.4 was required to publish the grant of EC in two local newspapers of the District or State, within seven days indicating that the project has been accorded environment clearance and the details of MoEF website where it is displayed. Accordingly, the Respondent No. 4 got published the grant of EC dated 13.08.2024 on 17.08.2024 in Dainik Bhaskar, Times of India and Kelo Pravah.
21. In response to the above contention, learned Counsel for the Appellant has submitted that the Hon'ble Supreme Court in *Sridevi Datla Vs Union of*

*India & Ors. ((2021) 5 SCC 321)*, has appreciated the fact the materials, information and assistance required to file an appeal under Section 16 before this Tribunal and has held that examination on merits in such matter by this Tribunal as a Court of first instance is almost a necessity.

The Court has held:-

*"29. Likewise, characterizing the nature of legal advice that can be accessed for challenging land acquisition, as similar to a challenge to environmental clearance which involves application of mind to technical issues in a detailed manner, would be unfair and simplistic. Scientific or technical support apart from expert professional legal advice is necessary, if the NGT were to be approached. In these circumstances, this court is of the opinion that given the mandate of the NGT Act, the exercise of discretion, as was done in this case, to reject the appeal by dismissing the application for condonation of delay, on the ground that no sufficient cause was shown, was erroneous and based on a narrow reading of the law. An appeal to the NGT in such matters is no ordinary matter; it has the potential of irrevocably changing the environment with the possibility of likely injury. Application of judicial mind by an independent tribunal in such cases, at the first appellate stage, is almost a necessity."*

and further that after hearing the parties, it is desirable that the matter should be proceeded on merit.

22. Next ground as submitted by the learned Counsel for the Appellant are that a bare reading of the judgement of this Tribunal dated 15.01.2024 in Appeal No. 26 of 2022 makes it clear that the direction was to re-examine the matter from the stage of conducting public consultation afresh and the 1<sup>st</sup> Respondent ought to have ensured complete compliance and conducted fresh public hearing before proceeding with the proposal of the 4<sup>th</sup> Respondent. However, they have proceeded to ignore the judgement of this Hon'ble Tribunal and worse, have in effect sat on appeal over the judgement and concluded that the public hearing was conducted in a fair

manner in compliance with the EIA Notification, 2006 and have issued the impugned clearance. Mere issuance of the letter of the 1st Respondent dated 19.02.2024 does not exonerate them nor does it amount to compliance. Thereafter, the 4<sup>th</sup> Respondent's letter dated 24.02.2024 wherein the 4<sup>th</sup> Respondent has conveniently ignored the findings and directions qua public hearing and submitted that the 1st Respondent may re-examine the matter based on appropriate study material placed on record by them appears to have guided the 1<sup>st</sup> Respondent. That the 1<sup>st</sup> Respondent's contention that the subject proposal was placed in several EAC meetings and that studies were called for and considered do not automatically cure the fundamental illegalities in the issuance of the impugned clearance or the non-application of mind. The 1<sup>st</sup> Respondent has not responded to the averments raised in the appeal and has resorted to a bald description of the process adopted by them leading to grant of the impugned environmental clearance.

23. It is further argued that in the case *Padvamavati Mohapatra Vs. Union of India & Ors.*, M.A. No.79 of 2012 in Appeal No.29/2012 vide order dated 08.08.2013, this Tribunal has observed that the law requires the Project Proponent not only to be in litigation but factum of passing an order of EC but also to establish the stipulated conditions and safeguard stated in such order. The purpose of publication of Environmental Clearance is to enable any person aggrieved to inform themselves of the clearance as and seek legal recourse as provided in law.
24. In response to above contention, learned Counsel for the Respondents Mr. Mr. Atmaram N.S. Nadkarni, learned Senior Counsel and learned Additional Solicitor General Mr. Raghavendra P. Shankar have submitted that Clause (7) of the EIA Notification, 2006, mandates that the Public

Hearing is required to be completed within a period of 45 days from the date of receipt of the request letter from the respective applicant. A bare perusal of the judgment dated 15.01.2024 passed by this Hon'ble Court in the earlier petitioner challenging the grant of EC, shows that this Hon'ble Court had only been pleased to direct that the matter be 're-examined from the stage of conducting public consultation afresh'.

The NGT, thus, never directed conducting a fresh public hearing but only directed the MoEF to re-examine the entire public consultation process afresh subsequent to which fresh orders were directed to be passed after due perusal of any additional documents that the Project Proponent places on record. Thus, there was no mandate/requirement for the MoEF to conduct a fresh public hearing, as is being alleged by the Appellants.

25. It is further argued that the EAC, in due compliance of the directions passed by the Ld. NGT, re-examined the entire process of the public hearing and only after being fully satisfied that the same was conducted as per the requisites and in compliance of the terms of the EIA Notification, 2006 did the EAC recommended the grant of EC to the Respondent. In fact, as an abundant precaution the EAC also constituted a sub-committee for verifying the entire process of the public hearing conducted, which not only visited the site but also re-examined all the minutes of meetings, video recordings and the objections raised by the people who attended the public hearing. It is only after thorough examination and due and proper appreciation of all the records available that the sub-committee submitted the report reciting complete satisfaction to the extent that the Public Hearing held on 29.09.2019 was held in due compliance of the terms of the EIA Notification, 2006. The said facts can

be ascertained from a perusal of the various EAC Minutes of Meetings wherein the Project of the Respondent was considered. After the EAC was provided with the copy of the judgment dated 15.01.2024 passed by the NGT and after the Respondent made a presentation before the EAC in its 9th meeting held on 21.03.2024, EAC was of the view that the representatives of the SPCB be invited to the EAC meeting to present their views on the issue. Further, comments were also sought from the Member Secretary, Chhattisgarh Environment Conservation Board regarding the prescribed procedure followed for the Public Hearing as also the comments from the present Applicants. The observations by the EAC made in its 9th meeting held on 21.03.2024 are under:-

*"Observation of EAC: As per EIA Notification 2006 (as amended) the concerned State Pollution Control Board is responsible for conducting a public hearing and also for seeking written responses from the concerned persons having a stake in the environmental aspects of the project or activity. Therefore, the Member Secretary, Chhattisgarh State Pollution Control Board shall provide details of the prescribed procedure followed for the Public Hearing; was this procedure was fully followed as per the rules; the number of people who participated; details of written submissions received; details of issues/concerns raised by the attendees both orally and in writing. The Committee is also of the view that any comments received from the applicants who have filed the case before Hon'ble NGT may also be provided. The Committee is of the view that to further deliberate on this issue, the representatives of SPCB shall be invited to the EAC meeting.*

*Further, the Committee is of the view that PP shall engage a reputed institute to conduct a fresh socio-economic study/assessment. The PP shall also submit details of all gram sabha meetings held as a part of FRA/FC Act clearance including copies of proceedings."*

*With the said observations the EAC was pleased to defer the proposal."*

26. The EAC in its 11<sup>th</sup> meeting held on 8/9.05.2024, while considering the Gare Palma II project, emphasised and deliberated only on 2 issues (i) Procedure followed while conducting Public Consultation and (ii) Carrying Capacity study. The relevant portion of the EAC Minutes of Meeting reads as under:

*"11.8.2: During the meeting, the Committee is of the view that although the PP provided status of information sought by EAC in the 9th EAC Meeting but during this meeting the PP and NABET Accredited consultant shall focus on mainly two issues viz., (i) Procedure followed while conducting Public Consultation and (ii) Carrying Capacity study as the other information submitted by the PP is premature at this stage and also a site visit is yet to be conducted by the sub-committee. Therefore, during this meeting deliberation is to be done on the following two issues."*

27. Pursuant to the directions of the EAC, Sh. R.K Sharma (SE, CECB) and Sh. Jhon Lakda (ACE, CECB) representatives from SPCB has joined the meeting through virtual mode. Upon interacting with the representatives of the CECB, the EAC was intimated that the Member Secretary, Chhattisgarh Environment Conservation Board (CECB), vide its letter dated 29.04.2024, had provided a clarification regarding the public hearing held on 29.09.2019 thereby clarifying and confirming that said public hearing was conducted by CECB as per the procedures laid down in EIA notification 2006 (as amended) and that all the provisions of EIA Notification, 2006 were duly complied with. Upon enquiring if whether the opportunity was given to local people to record their observations during the Public Hearing that was held, the EAC was intimated that Additional District Magistrate, Raigarh announced many times and local people were asked to come forward and respond and record their objections and consent if any regarding project. It was also informed to the Committee

that 59 persons present at the venue responded orally and 2 persons submitted the written response. The EAC was also duly intimated that representation of two of the petitioners herein were also received in 2018 and 2019 respectively and that the said petitioners had submitted health and environment reports prepared by some individuals on their own and not endorsed by any government agency. The EAC thought it fit that a Sub-committee shall visit the site and submit its report for further deliberation on the issue of public hearing held in the year 2019. After hearing the parties, the EAC deferred the proposal seeking the following information/documents:-

- i. Additional information already sought by the EAC, including additional carrying capacity study as mentioned above.*
- ii) Site visit report by the EAC Sub-Committee.*
- iii. CECB shall provide their comments and any other additional information in writing.*

28. In its 13<sup>th</sup> meeting held on 01-02.07.2024, the EAC took note of the fact that the sub-committee visited the site between 17-19<sup>th</sup> May 2024 and submitted its report on 01.07.2024. The Committee deliberated on the said site visit report submitted by the sub-committee and discussed the same as a part of the appraisal process. Further, EAC also observed that the comments from the representative of RO, Raipur vide letter dated 27.06.2024 were also brought to the notice of the Chairperson Sub-committee, who vide letter dated 10.07.2024 confirmed that the report submitted on 01.07.2024 is the final report. Based upon the due deliberation and re-examination of all the documents, report and material before it, the EAC concluded that the Public Hearing was held in due

compliance and in accordance with the terms of the EIA Notification, 2006. Accordingly, the EAC recommended the grant of EC for the Gape Palma II project. Pertinently, Public hearing is conducted in terms of the EIAA Notification 2006 by the State Pollution Control Board and the citizens are required to participate in the same and raise their objections or support the project as the case may be. There is no right available to any person, including the Appellants, to either object to the conduct of public hearing or further attempt by taking law in their own hands to disturb and avoid the proceedings during the public hearing. The right to protest, assuming this will not extend to blocking persons performing their duties including statutory duties of conducting of public hearing. It is only a peaceful protest, which is recognised by law so long as there are no other violations. Indeed, in the present case in the public hearing conducted large number of people participated and few even put forward their views. The contentions raised by the Appellants that the Public Hearing was flawed and not held as per procedure is baseless, contrary to the records and concocted. As a matter of fact, even the Appellant attended the said public hearing and got their respective objections recorded. All the concerns raised pertained majorly on public health and livelihood which have been duly addressed in the EIA Report of the Respondent, duly examined by the EAC and stipulated in the EC Conditions for which the Answering Respondent is bound to file half yearly compliance report with the EC Conditions. Finally, the EAC (being the expert body) after detailed deliberations, found the response of the Respondent to its satisfaction and had recommended the grant of EC for the Coal Mine Project in favour of the Answering Respondent to MoEF. The EAC, consequent to the directions passed by this Ld. Tribunal vide

judgment dated 15.01.2024, did re-examine the entire process of the Public Hearing conducted in the year 2019, including re-examination of the videography and other relevant documents by the sub-committee formed by the EAC, and after detailed deliberations, finally found that the Public Hearing was conducted in accordance with the terms of the EIA Notification, 2006.

29. It is further argued that the terms 're-examine' as per the dictionary only means 'the act of examining something again or further and term 'examine' means 'to consider or study an idea, a subject, etc. very carefully'. No where it means that the Tribunal had directed fresh conducting of the Public Hearing. Had the intention of this Tribunal was to get a fresh public hearing conducted, this Id. Tribunal would have directed so categorically. The directions passed by this Tribunal were to MoEF to re-examine the matter from the stage of conducting public consultation afresh. Pertinently, if the judgment passed by this Tribunal wanted that the Public Hearing be reconducted, then a direction would have certainly been issued to reconduct the Public Hearing, as was done in case of matter of *Adivasi Majdoor Kisan Ekta Sangthan & Anr. Vs MoEF & Ors.* vide order dated 20.04.2012. Even in the judgment of *Hanuman Laxman Aroskar v. UOI* reported in (2019) 15 SCC 401, the Hon'ble Apex Court also came to the conclusion that Public Consultation was not proper but did not direct a fresh Public Hearing to be conducted and instead directed the EAC to re-examine the matter - which has been done on present case also. The EC has been granted after due satisfaction and recommendation of the EAC. The EAC not only got fresh studies conducted but also constituted a sub-committee to visit the site and place the report on record. It was only after due consideration of all the

documents placed before it coupled with the comments from the expert representatives present during the meetings as well as presentations made by the Answering Respondent, that the EAC recommended the grant of the EC, subject to numerous specific and general conditions. As such due process has been followed and the EC has been granted in accordance with the provisions of the EIA Notification, 2006. There is no violation whatsoever of either the EIA Notification, 2006 or any directions passed by this Ld. Tribunal vide its judgment dated 15.01.2024.

30. Learned Counsel for the CECB Mr. Yadvendra Yadav has argued that the EAC in its meeting dated 20<sup>th</sup> & 21<sup>st</sup> March, 2024, asked the Member Secretary of the Respondent to provide details of the prescribed procedure followed for the Public Hearing with a specific query as to whether the public hearing was followed as per the rules, the number of people who participated, details of written objections/submissions received during the public consultation process and also inquired about the concerns raised by the attendees of the public hearing both orally and in writing. It is stated that the Respondent vide its Letter dated 29.04.2024 to EAC stated that the public hearing was conducted by the Answering Respondent as per the EIA Notification, 2006. The said letter detailed the entire process of Public Hearing which was followed as part of the Public Consultation process along with all relevant documents and materials. The Respondent vide another Letter dated 03.06.2024 addressed to the EAC again stated in detail the entire process of Public Hearing followed as part of the Public Consultation process along with all relevant documents and materials. Further, the representatives of the Respondent participated in the in the EAC Meeting dated 09<sup>th</sup> May, 2024, while apprising them of the prescribed procedure which was followed for the Public Consultation Process

including Public Hearing as per EIA notification, 2006. The Respondent vide its Letter dated 23.07.2024 apprised the EAC meeting that the carrying capacity study was carried out by IIT Patna and the same was accordingly forwarded to the EAC.

31. It is further argued that all the documents pertaining to the public hearing were presented before the EAC, which were duly considered, examined and deliberated upon in various EAC meetings, wherein the representatives of the CECB had participated and conveyed their views to the EAC. Further, the Answering Respondent had issued the notification for public hearing on 24.08.2019 till 26.09.2019, and notice of public hearing on 27.09.2019, which was also published in Newspapers i.e. (Dainik Bhaskar and Hindustan Times on 25.08.2019) and that the Respondent had conducted public hearing on 27.09.2019, in the premises of Govt. Primary School Village, Dolesara, Panchayat- Dolesara Tehsil- Tamnar, District- Raigarh for the project proposal of Respondent No. 4. It is stated that the public hearing was conducted under the Chairmanship of Additional District Magistrate, Raigarh. Additionally, the Regional Officer of the C.E.B.C., Raigarh, Additional S.P., Raigarh amongst other prominent members voluntary organizations had participated in the public hearing process held on 27.09.2019 between 11:00 am to 5:00 pm. It is stated that 58 individuals including the Appellant Nos. 1 & 2 participated and contributed their views on the upcoming Coal Project and whose views/suggestions have been duly taken into account in the minutes of the Public Hearing. That the Respondent submits that the Respondent No.4 has all the valid permissions and statutory clearances for carrying out the coal mining project. It is submitted that vide letter dt. 17.03.2025 has received Permission to Establish (P.T.E.) from the

Answering Respondent. As per the P.T.E., the Respondent No. 4 has been obligated with various conditions to be complied under the Air Act and Water Act.

32. The Member Secretary, Chhattisgarh Environmental Conservation Board, Nava Raipur Atal Nagar, District Raipur, vide letter dated 29.04.2024 communicated the Executive Director as follows:-

*“1. As per para 3.1 of APPENDIX IV OF EIA Notification 2006, Member Secretary, Chhattisgarh Environment Conservation Board, finalized the date, time and exact venue to conduct public hearing for Environment Clearance of Gare Palma Sector II coal Mine Project Open Cast 22.0 MTPA and. Underground 1.6 MTPA Capacity in mine lease area of 2583.48 ha of M/s Maharashtra State Power Generation Company Limited. Located in Village-Tilhi Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, JhinkaBahal, Dolesara, Bhalumura, Sarasmal and Libra, Tehsil-Gharghoda, District- Raiga (Chhattisgarh). The Date of public hearing was 27/09/2019 at the premises of Government Primary School, Dolesara, Tamnar, District-Raigarh (C.G.).*

*2. As per para 3.2 of APPENDIX IV OF EIA Notification 2006, The same was advertised National Daily News Paper Hindustan Times on 25/08/2019 and Regional Vernacular Da Dainik Bhaskar on 24/08/2019. A minimum notice of 30 days was given to public f furnishing their responses.*

*3. As per para 3.2 of APPENDIX IV OF EIA Notification 2006, The places and offices were also mentioned in the advertisement to access the draft Environment Impact Assessment report and the Summary Environmental Impact Assessment report.*

*4. As per para 2.4 of APPENDIX IV OF EIA Notification 2006, The Draft EIA Report an Executive Summary of the project was placed in the following offices 1. Office of Distric Collector, Raigarh, 2. Office of Zila Panchayat, 3. District trade & Industries center, Raigart 4. SDM (Revenue) Gharghoda, Raigarh (C.G.), 5. Regional Officer, Regional Office Chhattisgarh Environment Conservation Board, Raigarh (C.G.). 6. IRO Ministry o Environment, Forest & Climate Change, Civil lines, Nagpur (M.H.), 7. Director Environment Ministry of Environment, Forest & Climate Change, New Delhi, 8. Gram Panchayat, Village*

*Tilhi Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, JhinkaBahal, Dolesara, Bhalumura, Sarasmal and Libra, Tehsil-Tamnar, District- Raigarh, 9. Member Secretary, Chhattisgarh Environment Conservation Board, Atal Nagar Nava Raipur (C.G.) for free public access.*

*5. As per para 2.4 of APPENDIX IV OF EIA Notification 2006, Notice of public hearing along with Draft EIA Report and Executive Summary was also made available to Gram Panchayat, Village-Tilhi Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, JhinkaBahal, Dolesara, Bhalumura, Sarasmal and Libra, Tehsil-Tamnar, District-Raigarh, 30 days before scheduled date of public hearing for their responses.*

*7. As per para 4.1 of APPENDIX IV OF EIA Notification 2006, Additional District Magistrate, Raigarh supervised and presided over the entire public hearing.*

.....

*13. As per para 6.4 of APPENDIX IV OF EIA Notification 2006, Every person present at the venue was given opportunity to seek information or clarifications on the project from the applicant. The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed was recorded and read over the audience at the end of the proceedings. The minutes were signed by Additional District Magistrate, Raigarh and Representative of Chhattisgarh Environment Conservation Board i.e. Regional Officer, Raigarh.*

*14. The M/s Maharashtra State Power Generation Company Limited, Representative clarify and addressed the objections, issues raised and information's etc. raised by the publi present during public hearing.*

.....

*18. As per para 7.2 of APPENDIX IV OF EIA Notification 2006, Chhattisgarh Environment Conservation Board sent proceedings of the public hearing along with the objection and suggestions received during the public hearing and also before and after the public hearing, video-graphy of public hearing and attendance sheet etc. vide letter no. 6246 dated 16/10/2019 to MoEF&CC with endorsement to M/s Maharashtra State Power Generation Company Limited with all enclosures.”*

33. It is further submitted that the process of Public Consultation was effectively carried out by the CECB and that the two components of public consultations, namely, conducting of public hearing and response in writing from stakeholders were duly fulfilled as per the above-mentioned requirements of the EIA Notification, 2006.
34. Learned counsel for the MoEF&CC Mr. Raghavendra P. Shankar has submitted that during the hearing by the EAC, the Committee was of the view that the PP shall first forward/circulate all relevant documents including the order of the Court to all the Members of the Committee and it was deferred later on. As desired by the Committee the Mahagenco, on 17.03.2024 circulated the relevant documents pertaining to the NGT judgement to the EAC and MoEF&CC. Further, the Ministry vide email dated 19/03/2024 circulated the requisite documents including NGT Judgment dated 15.01.2024 to the EAC. The PP vide proposal number IA/CG/CMIN/466451/2024 also applied on the Parivesh Portal and the proposal is now placed in the 9th EAC meeting held on 21/03/2024. The Committee after deliberations noted the following:-

*“During the meeting the PP made a presentation and submitted the following:*

- *MoC, Gol has allotted the Gare-Pelma Sector-II Coal Mine to Mahagenco on 24.03.2015.*
- *Mahagenco signed the Allotment Agreement on 30.03.2015 and subsequently signed the Amendment on 31.08.2015.*
- *Coal mining was proposed in a total lease area of 2583.48 hectares falling in various villages (14 Nos.) of Tehsil Gharghoda, District Raigarh (State of Chhattisgarh).*
- *The ToR was granted on 8/8/2016.*
- *Public hearing for the project of 23.60 MTPA capacity in an area of 2583.48 ha was conducted on 27th September 2019 at Village-Dolesara, District-Raigarh, Chhattisgarh.*

- Mahagenco submitted proposal no. IA/CG/CMIN/52019/2016 seeking EC under EIA Notification dated 14.09.2006 (hereinafter referred to as 'EIA 2006') for mining of coal to MoEF&CC.
- The first time, the Project was considered & discussed in the 51st EAC meeting on 05.12.2019 and the proposal was returned to PP with few observations. Again, the Proposal was considered in the 2nd EAC meeting held on 28-29th Sep'2020 wherein the proposal was recommended for grant of Environmental Clearance. MoEF&CC granted the Environmental Clearance on 11.07.2022.
- MoEF&CC granted FC -I for diversion of 214.869 ha. Forest land on 02-06-2022; FC stage- II has also been granted on 27.01.2023.
- CTE applied on 19.01.2023 to CECEB and it is in the final stage for final approval.
- Mine lease application submitted on 08.12.2015. Mahagenco has requested to MRD (Mineral Resource Department), Gov. of Chhattisgarh for the execution of the mine lease on 06.02.2023 and 02.08.2023. and as reported by PP it is in the advanced stage of approval.
- Environment Clearance challenged by four appellants in National Green Tribunal (NGT), Bhopal. On 15th January 2024, Hon'ble NGT quashed the Environment Clearance on concerns about Public Hearing, Carrying Capacity study, Hydrology study and ICMR report.
- The Committee noted that PP has filed a Civil Appeal before the Hon'ble Supreme Court. PP reported that they have requested to withdraw the Civil Appeal filed before the Supreme Court and the Hon'ble Supreme Court vide Order dated 15.03.2024, disposed of the case as withdrawn by keeping the other remedies of the Appellant (Mahagenco) open in accordance with the law.”

35. During the meeting, the PP made a presentation and provided its justification on the 4 issues mentioned in the Judgment dated 15.01.2024 of NGT:

**“i) Public Consultation:**

- MAHAGENCO submitted the draft EIA report to the State Pollution Control Board i.e. Chhattisgarh Environment Conservation Board (CECEB) on 01.08.2019 for intention to conduct the Public Hearing.

- *Prior notice was published in local newspapers (Dainik Bhaskar) and English newspaper (Hindustan Times) on 25.08.2019 for awareness of local stakeholders with the date, and venue of the Public hearing.*
- *Public hearing conducted on 27.09.2019 at Government Primary School Ground, Dolesara, Tehsil Tamnar, District Raigarh in close proximity to the project as per EIA notification, 2006, completing all necessary observations/preparations.*
- *Public hearing was conducted under the chairmanship of the Additional District Magistrate Mr. R. A. Kuruwanshi and R.O, CECEB- R.K. Sharma as its Member Secretary.*
- *PH for the said project was successfully conducted observing all necessary requisites of it in the presence of the Additional Superintendent of Police and other voluntary organisations.*
- *As per the Public hearing proceedings, around 1000 People assembled to whom ADM requested to render their views. The process concluded smoothly, and 58 persons expressed their views/suggestions regarding the project and even signed in the attendance register kept for the purpose. The majority of the local participants welcomed the company and supported the project.*
- *Equal, fair and adequate opportunity with time was given to the participant to express their views.*
- *PH was done with all due processes envisaged under EIA notification-2006 as per the Affidavit filed by CECEB during the NGT proceedings.*
- *All objections/views raised in PH have been addressed in Final EIA.*

**Observation of EAC:** *As per EIA Notification 2006 (as amended) the concerned State*

*Pollution Control Board is responsible for conducting a public hearing and also for seeking written responses from the concerned persons having a stake in the environmental aspects of the project or activity. Therefore, the Member Secretary, Chhattisgarh State Pollution Control Board shall provide details of the prescribed procedure followed for the Public Hearing; was this procedure was fully followed as per the rules; the number of people who participated; details of written submissions received; details of issues/concerns raised by the attendees both orally and in writing. The Committee is also of the view that any comments received from the applicants who have filed the case before Hon'ble NGT may also be provided. The Committee is of the view that to further deliberate on this issue, the representatives of SPCB shall be invited to the EAC meeting.”*

36. Further, the Committee is of the view that PP shall engage a reputed institute to conduct a fresh socio-economic study/assessment:

**“i) ICMR Report:**

- *ICMR Report was prepared for the Tamnar region and submitted to MoEF & CC. Some additional conditions already covered by MoEF & CC in the EC were granted to Mahagenco on 11.07.2022.*
- *It is requested to kindly share the ICMR Report and its findings with Mahagenco. Accordingly, Mahagenco will comply with the recommendations of the ICMR Report.*

**Observation of EAC:** *The Committee is of the view that PP shall get the study done from AIIMS Chhattisgarh or reputed Govt. specialised institute for anticipated impact of the project on the health of people living in the surrounding area; suggest remedial measures and the institute should also offer comments on the ICMR report particularly with references in this study on the predicted impact of the project on the health of people living in the surrounding area.*

**iii) Hydrological study:**

- *The study was conducted by NABET accredited consultant Min-Mec as per the direction of EAC.*
- *Kelo river will not be diverted due to the prevailing topography, shape of the block and presence of other coal blocks all around. Further, a thick greenbelt is proposed for development around the*

kelo river.. Initially a safety barrier of 17 m to 45 m was proposed. However, while granting the environment clearance, EAC stipulated the condition to observe a barrier of 100 meter from the HFL of the river.

- A separate study on hydrology from IIT (ISM) Dhanbad has been additionally proposed to substantiate the findings.

**Observation of EAC:** The Committee is of the view that the Hydrogeological Study was conducted by NABET Accredited consultant, but Hon'ble NGT observed some shortcomings in the same, particularly concerning high flood levels and mentioned in its judgment that "Moreover, high flood level of the river has been taken for a very small period of 1996-97 to 2002-03, though it should be of the period of last 50 or 100 years". The Committee is of the view that PP shall get the revised study done from IIT (ISM) Dhanbad and the concerned institute shall ensure that observation of Hon'ble NGT and applicants shall be addressed in the proposed study report.

**iv) Carrying Capacity Study:**

- We understand that a study has been facilitated by CECB under collaboration with IIT Bhillai & IIT Mumbai.
- It is requested to share the report and the findings and accordingly, we shall comply with the conditions as guided by EAC/MoEFCC.

**Observation of EAC:** The Committee is of the view that representatives of concerned SPCB shall be invited to deliberate on this issue.

37. In addition to above, the Committee also proposed the following:-

“i) There is a change in consultant who is required to re-validate the EIA/EMP report. Therefore, the Committee is of the view that fresh baseline data needs to be collected. While revalidating the EIA/EMP if any additional study is required to be done then the same needs to be completed. Consultant should ensure that EIA/EMP should be complete in all respect considering the OMS issues by MoEF&CC from time to time.

ii) Plot the wind rose diagram using the typical meteorological year (TMY) data for the period considered for the study.

- iii. *The monitoring units shall be deployed in the field based on the coverage area ratio and direction of the wind.*
- iv) *Mathematical model shall be developed for local site rather than using the standard model available in software for both air & water quality modeling.*
- v) *Support generation of renewable/purchase power generated from the renewable sources to the tune of at least 25% of their total power generating capacity.*
- vi) *To align themselves to one/few of the Sustainable Development Goals (SDG) and start working on the mission of net zero by 2050.*
- vii) *Plan for protection of the ecology of the surrounding area and post-mining ecological restoration plan to be prepared by reputed Institute/ University.*
- viii) *Detailed time bound planting plan with native species. PP should submit the detailed plan in tabular format (year-wise for life of mine) for afforestation and green belt development in and around the mining lease. The PP should submit the number of saplings to be planted, area to be covered under afforestation & green belt, location of plantation, target for survival rate and budget earmarked for the afforestation & green belt development. In addition to this PP should show on a surface plan (5-year interval for life of mine) of suitable scale the area to be covered under afforestation & green belt clearly mentioning the latitude and longitude of the area to be covered during each 5 years. The capital and recurring expenditure to be incurred needs to be submitted. Plantation plan should be prepared in such a way that 80% of the plantation to be carried out in first 5 years and for the remaining years the proposal for gap filling. The seedling of height not less than 2 meters to be selected and accordingly cost of plantation needs to be decided. In addition to this, plantation in the safety zone at lease boundary the plantation should be planned in such a way that it should be completed within 2 years only.*
- ix) *PP should submit the quantity of surface or ground water to be used for this project. The complete water balance cycle need to be submitted. In addition to this PP should submit a detailed plan for rain water harvesting measures to be taken. The PP should submit the year wise target for reduction in consumption of the ground/surface water by developing alternative source of water through rain water harvesting measures. The capital and recurring expenditure to be incurred needs to be submitted.*

*x) While preparing the Hydrogeological Study it shall be ensured that guidelines/OMs issued by MoEF&CC are followed.*

*xi) PP should mention the number and designation of person to be engaged for implementation of environmental management plan (EMP). The capital and recurring expenditure to be incurred needs to be submitted.*

*xii) A site visits by EAC team along with representatives of SPCB, MoEFCC Regional Office and other experts will be done.*

*Based on the discussion held and document submitted the Committee deferred the proposal.”*

38. The proposal was again considered in the 11<sup>th</sup> EAC Meeting Day 2 meeting held from 08.05.2024 to 09.05.2024 and the proposal was considered with certain specific conditions narrated in the meeting and observations which was made part of the final EC.
39. During the 11<sup>th</sup> EAC Meeting held during 08.05.2024 to 09.05.2024, the Committee enquired the CECB as whether opportunity was given to local people to record their observations in this regard and CECB informed that Additional District Magistrate Raigarh announced many times and local people were asked to come forward and respond and record their objections on consent if any regarding project. The Committee also observed that the same was also recorded in the letter dated 29.04.2024 and it was informed to the Committee that 59 persons present at the venue responded orally and two persons submitted the written responses.
40. The matter of carrying capacity was also discussed in the 11<sup>th</sup> EAC Meeting and the Committee asked the representative of the CECB about the scene and it was informed that CECB has engaged IIT Bhilai & IIT Bombay to conduct the Carrying Capacity Study of Tanmar Block & Ghar Ghoda Block of Raigarh District of Chhattisgarh. The Committee also asked that the mine is included in same in this regard it was informed to

the Committee that the said study was done for existing coal mines, Thermal Power Plants, Sponge Iron Plants etc. and this mine was not included in the same. Accordingly, the Committee directed that the CECB shall request the IIT Bhilai and IIT Bombay to conduct carrying capacity study which would include not only the present operation mines and industries but also the proposed industries and mines coming up in the area. In addition to the above, the Chairman EAC desired that the Sub-Committee shall visit the project site and submit its report. The Ministry of Environment Forest & Climate Change vide letter dated 13<sup>th</sup> May, 2024 constituted a Committee for site visit as follows:-

*3. In view of acceptance of the recommendations of Expert Committee, the Ministry hereby constitutes a sub-committee comprising of following members for the scheduled site visit:-*

<b>S.No.</b>	<b>Name</b>	<b>Role</b>
1.	Shri Mahi Pal Singh	Chairman
2.	Prof Shyam Shanker Singh	Member
3.	Shri K B Biswas	Member
4.	Representative of Regional Office , MoEF&CC	Member
5.	Representative of SPCB	Member

41. In compliance of the Ministries of this order, the Sub-Committee visited the project site during 17-19<sup>th</sup> May, 2024. The Annexure-7, the presence of the Chairman and the Members and attendance-sheet has been attached with report. During the visit the Members of the Sub-Committee met CECB and the Project Proponent and also gone through the recorded video of public hearing and also visited the Kelo river site. After the site visit and deliberations with the stakeholders, the Sub-Committee team is of opinion that the Gare Palma-II Mining Project may be considered for grant of EC. When all the conditions, suggestions/requirements asked by the Sub-Committee during the site visit of Gare Palma-II Coal Mine will get

completed and fulfilled and this report has been signed by all the persons including the Chairperson/Chairman. This report was discussed in the 13<sup>th</sup> of Expert Appraisal Committee which was held on 1<sup>st</sup> and 2<sup>nd</sup> July of 2024. The discussion or reservation of the aforesaid details finds place in the 13<sup>th</sup> EAC meeting held during 1<sup>st</sup> and 2<sup>nd</sup> July, 2024 as follows:-

*“9) The Committee noted that, Hon’ble NGT in its Judgement dt. 15.01.2024 asked the Ministry to review the proposal from the stage of conducting Public consultation afresh. As per EIA Notification 2006 (as amended) the concerned State Pollution Control Board is responsible for conducting a public hearing and also for seeking written responses from the concerned persons having a stake in the environmental aspects of the project or activity. Therefore, in the previous meeting the EAC sought comments of the Member Secretary, Chhattisgarh State Pollution Control Board regarding details of the prescribed procedure followed for the Public Hearing; was this procedure was fully followed as per the rules; the number of people who participated; details of written submissions received; details of issues/ concerns raised by the attendees both orally and in writing, any comments received from the applicants who have filed the case before Hon’ble NGT may also be provided. The committee also viewed the video recording of the public hearing. The Committee also desired that to further deliberate on this issue, the representatives of SPCB shall be invited. Ministry vide email dt. 02nd May 2024, requested Member Secretary, State Pollution Control Board, to take necessary action as per the above recommendation of EAC and also to attend the 11th EAC meeting scheduled for 09th May 2024. During the 11th EAC meeting the PP informed that Member Secretary, CECEB vide letter dated 29.04.2024 provided details of the prescribed procedure followed and mentioned that procedure was followed as per EIA Notification 2006. It was also informed to the Committee that Sh. R.K Sharma (SE, CECEB) and Sh. Jhon Lakda (ACE, CECEB) representatives from SPCB has joined the meeting through virtual mode. The committee interacted with the above representatives of CECEB on the procedure followed during the public consultation. The representative of CECEB informed that Member Secretary, Chhattisgarh Environment Conservation Board (CECEB) vide letter*

dated 29.04.2024 provided a clarification regarding the public hearing and as per the clarification provided by MS, CECB, the public hearing was conducted by CECB as per the procedures laid down in EIA notification 2006 (as amended). All the provisions of EIA Notification, 2006 has been complied with. CECB informed that the Public hearing conducted on 27.09.2019 at Government Primary School Ground, Dolesara, Tehsil Tamnar, District Raigarh in close proximity to the project as per EIA notification, 2006, completing all necessary observations/preparations. Public hearing was conducted under the chairmanship of the Additional District Magistrate Mr. R. A. Kuruwanshi and R.O, CECB- R.K. Sharma as its Member Secretary. The representative of CECB also confirmed the same during the meeting. In the same meeting the Committee asked whether the opportunity was given to local people to record their observations. In this regard representative of CECB informed that Additional District Magistrate, Raigarh announced many times and local people were asked to come forward and respond and record their objections and consent if any regarding project. The Committee also observed that the same was also recorded in the letter dated 29.04.2024 at Sl. No 12. It was also informed to the Committee that 59 persons present at the venue responded orally and 2 persons submitted the written response. The Committee also asked whether the four petitioners who have filed the case before the Hon'ble NGT recorded their oral and written submission during the PH or earlier submitted any responses. In this regard, representative of CECB informed that representation of two of the petitioners were received in 2018 and 2019 respectively. Further, they have submitted health and environment reports prepared by some individuals on their own and not endorsed by any government agency. The Committee observed that in letter dated 02.04.2018 one of the petitioner requested for cancellation of the Public Hearing on various grounds viz. i) Gram Sabha's NOC for Forest Rights Act, ii) no project can be established in the Fifth Schedule area without the permission of the Gram Sabha, this public hearing being organized in disregard of the Constitution and the PESA Act., iii) Forests and agricultural land will be destroyed, iv) mining should not be done in this area without carrying capacity study and cumulative impact assessment, v) issues related to acquisition of land including tribal land, iv) pendency of forest right claims, vii) environmental condition of this area should be examined

*etc. The Committee observed that other petitioner raised issue regarding violation of Panchayat Raj Adhiniyam via written submission that gramsabha has not been conducted in all the affected villages, hence request to cancel the public hearing.*

*It was also informed to the Committee that Maharashtra State Power Generation Company Limited has already obtained Stage -II FC on 27.01.2023 and PP vide email dated 03.05.2024 also submitted the letter dated 02/12/2019 issued by the Collector, Raigrah District thereby forwarding the NOCs obtained from Gram Sabha, which are based on meetings of the gram sabha. The Committee is of the view that CECB shall provide their comments on this issue and any other additional information in writing. Further, the Subcommittee shall visit the site and submit its report for further deliberation on the issue. To get an insight of the views of people the Committee also suggested for a socio-economic study.*

*In the 13th meeting of the EAC, the CECB officials again explained the procedure for Public hearing carried out as per EIA rules and informed the committee that in other projects also a similar procedure is followed.”*

42. The learned counsel for the Appellant has submitted that in the judgment dated 15.01.2024, the findings were that there was non-application of mind on the part of EAC and held that the IACMR Report which recorded serious health impact are to have been considered by the EAC and in the 9<sup>th</sup> Meeting of EAC 21.03.2024, it was observed that it should be done by the AIIMS, Chhattisgarh, or reputed Government specialized institute for anticipated impact on the project on the health of the people. It was argued that though a letter was addressed to the AIIMS, Chhattisgarh, requesting for carrying out health study but it could not be conducted.
43. The submissions of the Respondent are that there was no response from AIIMS, Chhattisgarh, as the AIIMS, Chhattisgarh, has no time and, thus, they approached Central Institute of Mining & Fuel Research to conduct anticipated health assessment and recommended the study. Contention of

the learned Counsel for the Appellant are that the ICMFR is not an agency that is equipped or designed to carry out health assessment or study health impacts and further that the three signatories were not the experts and qualified in doctors.

44. It is further agued by the Appellant that the ICMFR report does not contain any assessment of the anticipated impact of the proposed project on the health of the people and the report makes a cursory mention of water contamination, change in soil fertility, geo-morphological modification Report makes a cursory mention of water contamination, change in soil fertility, geomorphological modification, food contamination, ecosystem services alteration as the environmental concerns due to proposed project, respiratory health hazards and physical injuries as occupation health issues and proceeds to list 3-sentence long mitigative measures for respiratory health hazards, physical injuries, chemical hazards. etc. Recommendations have been stated drawing from the above “study” which are generic in nature and is not outcome of any study or assessment of impact on health. The report itself recognizes the need for a project specific study to address the potential health impacts in the proposed mining activity. However, such a study is absent in the entire consideration of the impugned EC. It is submitted that this study does not even meet the requirements of EAC’s direction extracted above. It is necessary to reiterate that the EAC sought “study done from AIIMS Chhattisgarh or reputed Govt. specialised institute for anticipated impact of the project on the health of people living in the surrounding area; suggest remedial measures” and this study is neither by a specialized agency or institute and nor does it assess the anticipated impact.

45. The Appellant has further argued that the Socio-Economic Study was also not correct in accordance with the procedure.
46. The learned Counsel for the Respondent has highlighted the discussion of the meeting and argued that during the 13<sup>th</sup> EAC meeting held on 01-02.07.2024 Project Proponent submitted that as suggested by EAC, PP carried out a comprehensive socio-economic study through Entrepreneurship Development Institute of India (EDII), Ahmedabad, which is an acknowledged National Resource Institute for Entrepreneurship education, research & training and is recognized as the Centre of Excellence by Ministry of Skill Development and Entrepreneurship and is also the National resource Organisation (NRO) for the Ministry of Rural Development, Government of India. The Committee noted that the study was done based on the data collected from fourteen village and Focused Group Discussion held with various stakeholders of 7 Villages. The study covers 14 villages in the Raigarh district of Chhattisgarh, with a population of 13,567. The data collection process for the study employed three primary techniques: personal interviews, focused group discussions, and hand-out questionnaires. The questionnaires were designed to cover a wide range of topics relevant to the survey, including basic household information, demographic profiles, socio-economic status, occupation patterns, educational status, health status, socio-cultural status, village infrastructure etc. Data Consultation was conducted in all of the villages to ensure a comprehensive understanding of the research area. It is inferred from the survey that the agriculture sector is predominant, and the average annual income from agriculture is 1.35 Lakh; in service, it is 1.25 lakh, and in wage labour, it is 1.09 lakh. Focused Group Discussion has been undertaken in 7 villages

out of 14 affected villages. Villages were selected as per the proximity to the mining area, concentration of SC/ST households, most affected villages, and villages having more population. In each village where FGDs are conducted, a common meeting was held with prior information to the members of villages and key informants like Sarpanch, village head, Ward Member, AWW, teachers, farmers, SHG members, etc. Participants highlighted cultural and psychological impacts, including changes in kinship patterns and socio-cultural practices due to the anticipated mining activities. Environmental concerns such as noise pollution, water pollution, air quality degradation, and the impact on forest resources and wildlife were also raised during the discussions. The villagers' also emphasised on the need for Employment, improved road connectivity, access to electricity, safe drinking water, and sanitation facilities. Residents near mining sites raised concerns about the impact on their traditional livelihoods. Specifically, the SC and ST women communities of mining-affected villages described that they used to make bamboo baskets and leaf plates before mining. At that period, forest resources were abundant, and by collecting bamboo and sal leaves, they were in the habit of preparing and selling these products. But mining has diminished this occupational opportunity. It was further observed that Forty-five religious places, 25 community halls, 11 panchayat bhavans and six grazing grounds are being disturbed. One of most significant impact of resettlement is the disturbance of the social fabric. A plan needs to be made that maintains the spatial and cultural practices in the new geography. The sanctity of religious places, not just the sanctum sanctorum, needs to be maintained. This is a sensitive area particular for tribals as they tend to have multiple deities and have spatial conditions for

them. Providing space for fairs, melas and Haat is mandatory. Cultural and spiritual support can provide opportunities to the affected individuals for cultural expression, traditional rituals, and spiritual guidance to reconnect with their identity and sense of belonging. Since mine would bring a large multi-cultural population from outside these villages, the demography of the area changes disturbing the social fabric. The Committee is of the view that social fabric of the area needs to be kept intact, accordingly, the R&R plans should be made such that the Cultural and religious belief of the locals are protected.

47. As mentioned in the report, cash-only resettlements have led to increased impoverishment due to usage of cash for immediate requirements such a loan repayment, higher conspicuous consumption and involvement in nefarious activities specially in case of tribals. A large number of the outsees are not educated enough to get good jobs and end up becoming marginal labourers. It has been observed in much development and government programmes that in large number of cases money given to men has not been utilised properly. Instead, when the amount is given to the women directly, it has led to high family welfare and women empowerment. In some cases, it reduced domestic violence. Women contribute the upkeep of the homes in rural communities with subsistence farming, gardening, rearing chickens, collecting and processing local produce and other foodstuffs, fishing in streams and petty trading.
48. To cope up with the psychological impact, emotional support provided by trained counsellors can help the individual and families. Apart from this, raising awareness about mental health through community meetings and informational materials can reduce stigma within affected communities

and encourage them to seek help when needed. A holistic programme addressing several issues of improvisation, psychological and cultural impact, and environmental and ecological effects needs to be developed. Education, capacity building, health, and women empowerment should be made central. The mitigating plan for resettlements needs a longer term and hence futuristic approach which maintaining the core of the rural communities.

49. During the meeting, PP informed that representative of EDII study team Prof. Piyush Kumar Sinha, Chief Mentor, EDII is available online for discussion on the outcomes of the report. Prof. Piyush submitted that about 60% of the area will be relocated. Their employment will be impacted. People in the area are of the view that employment should be generated; only compensation payment will not suffice. Rather thoughtful measures should be taken up to develop skills for alternate employment also. He further submitted that officials from EDII interacted with local community residing in the area, Community leaders support the project and seek support for Employment, Education (Skill development), Infrastructure (Hospitals, Roads etc.), Opportunities of entrepreneurial nature (with combine support of Corporate) Innovative industries, Cultural Support. PP Submitted that apart from compensation they will be giving job to members of the affected families. The Committee enquired about willingness of the villagers for establishment of the industry. Prof. Piyush informed that villagers largely support the project due to anticipated benefits in terms of financial compensation, improved livelihoods, and enhanced infrastructure and want the project to be started at the earliest. Many have already invested in their land, expecting greater returns once mining operations commence. He further informed that despite concerns

about the potential loss of kinship and traditional ways of life, villagers are optimistic about the developmental opportunities that mining could bring. They anticipate better access to health and education services for their children, contributing to overall improvements in their quality of life.

50. The Committee observed that major concerns raised during the Social Impact Assessment study carried out by GreenC India Consulting Private Limited during 2017 also envisaged that the major issues present in the area include; people are worried about their relocation/migration, leaving their ancestral place and culture, decisions by Govt. being taken without informing them, loss of land and land rates being offered, health issues education issues; pollution, and infrastructure in the area. The Committee observed that it has mentioned in EIA report the based on this SIA the R&R plan was approved by Chhattisgarh Government on 4.02.2020. The Committee observed that it has mentioned in the Socio-economic report that "Resettlement is a process that requires a longer-term perspective. It is about recreating the current settlement while keeping the future in mind. The efforts needed to create a sustainable ecosystem that achieves a balance between modernity, traditions, technology, ecology and humanity. The life of mine is 77 years and beyond. Efforts must be made to craft strategies and plans for at least 10 years. In many cases, it has been found that the budgets allocated tend to be insufficient as the planning horizon is shorter". The report also provides the guiding principles for developing different mitigation plans. The Committee observed that budget proposed for addressing the issues of PH is Rs 5.275 Crores. The Committee suggested that PP shall prepare a mitigation plan following the guiding principal as mentioned in Socio-economic report within a period of six months and submit it to the Ministry. PP shall ensure that sufficient

fund shall be allocated for the same keeping in mind that activities to be carried out for at least 10 years.

51. Further, as desired by the Committee, PP submitted the Health Assessment report for study carried out by ICMR in the Tamnar area during the year 2019-2020 and the report on Anticipated Health Impact Assessment and Recommendations by CSIR CIMFR (June24). The study of CSIR CIMFR was carried out with the objective to study the anticipated impact of the project on the health of people living in the surrounding area, suggest mitigation measures and offer comments on the ICMR report particularly with reference to this study on the predicted impact of the project on the health of people living in the surrounding area of Gare Palma-II Coal Mine Project in Tamnar, Raigarh, Chhattisgarh. During the meeting PP informed the Committee that Prof Santosh Kumar Ray and Prof Bhanu from CIMFR are available online to discuss the report on Anticipated Health Impact Assessment and Recommendations by CSIR-CIMFR. It was informed to the committee that study envisages the a) The project raises concern about water contamination, alteration of geomorphology, soil fertility loss, food contamination, and ecosystem service disruption. Additionally, occupational hazards include respiratory issues, physical injuries, noise-induced health problems, chemical exposure, psychosocial concerns, and sanitation issues, b) Suggested mitigation measures include dust control, transportation optimization, health screenings, ergonomic assessments, chemical substitution, stress management programs, emergency response plans, water management practices, land reclamation efforts, and community engagement initiatives, c) The primary focus is to meticulously assess the potential ramifications of mining activities on the health concerns of the immediate stakeholders,

namely employees and PAPs, and to devise proactive, precautionary, mitigative, and adaptive measures accordingly, d) Mining operations inherently entail various occupational health hazards, including exposure to dust, noise, and hazardous chemicals. Dust generated during mining activities poses respiratory health risks, potentially leading to conditions such as pneumoconiosis and chronic obstructive pulmonary disease (COPD) among workers, e) Similarly, prolonged exposure to high noise levels can result in hearing loss and other auditory disorders, f) Furthermore, the disturbance of land and soil fertility loss can impact agricultural productivity, posing additional challenges to the local community's livelihoods, g) The project's proximity to water bodies raises concerns regarding potential water contamination, which could have far-reaching ecological consequences, h) Due to the large-scale operations proposed by the GPII project, there is a chance of potential water contamination. Activities such as mining, waste disposal, and transportation logistics may introduce pollutants into local water bodies, i) To mitigate these occupational health issues and hazards, comprehensive safety measures and health protocols must be implemented throughout the project lifecycle. This includes providing personal protective equipment (PPE), conducting regular health screenings, ensuring proper ventilation in underground mines, implementing ergonomic work practices, promoting mental health awareness, and engaging in community health programs to address the broader health impacts of mining activities. Additionally, ongoing monitoring and evaluation of occupational health risks are essential to adapt and improve safety measures as needed, j) While the project aims to meet India's growing coal demands, bringing-in economic activities and developing a livelihood facilitating ecosystems in

the area however, it has also risk of substantial environmental and occupational health concerns. The study outlined potential risks such as water contamination, alteration of geomorphology, soil fertility loss, food contamination, and disruption of ecosystem services. Similarly, the risk of occupational health contains respiratory hazards, physical injuries, noise-induced health issues, chemical exposure risks, psychosocial health concerns, air and water pollution, and emergency response risks for workers and nearby communities, k) ICMR health vulnerability concerns are indicative of its skewness towards lifestyle and psychosomatic dimensions leading to diseases like high blood pressure (BP), diabetes, etc. This may be addressed by mitigating their stress component, which occurs due to idleness, meagre avenues of economic activity, and a lack of livelihood opportunities leading to mundane life quality, l) As stated above, the mine/project may only be consented towards its go ahead if and only if it is to be carried in a sustainable manner. Additionally, towards the health concerns of its people and larger stakeholders, project proponent must develop a healthy ecosystem beyond mandatorily required dispensary and occupational health centres. This may include developing a multi-speciality hospital with modern instruments and medical professionals to cater the health vulnerability of the people and community living in the area and vicinity, and m) Ultimately, a collective effort involving government agencies, industry stake holders, local communities and health professionals is essential to ensure responsible management of the mining project and preservation of human health and environmental integrity.

52. The expert of CSIR-CIMFR also briefed the Committee about the recommendations. The Committee observed that the recommendation of CSIR-CIMFR are as follows:

*“(i) Design and operate the mine with a focus on minimizing dust generation during coal and Overburden (OB) production processes. Employ advanced technologies and engineering solutions to mitigate dust emissions at the source.*

*(ii) Implement transportation methods that prevent the exposure of dust to the ambient air. Utilize In-Pit Crushing and Conveying (IPCC) or High Angle Conveying (HAC) mechanisms for material handling and transport to minimize airborne dust.*

*(iii) Aim to transform the mine into a seldom blast and preferably dumper-free opencast mining by adopting cutting-edge technology for coal production, crushing and transport. This approach not only reduces dust emissions but also enhances work place ergonomics, operational efficiency, health hygiene and safety.*

*(iv) Implement a closed transportation system utilizing pipe conveyors or enclosed conveyors. This approach ensures that material transport is contained within a closed system, minimizing the dispersion of dust and pollutants into the surrounding environment.*

*(v) Implement a comprehensive green belt initiative, incorporating dense vegetation surrounding the mine site. This strategic green belt will act as a natural barrier, effectively reducing dust dispersion and minimizing noise pollution, thus mitigating the environmental impact on the surrounding community.*

*(vi) Mandate regular medical examinations, including spirometry tests, for all workers to monitor lung function and detect early signs of respiratory diseases. Conduct training sessions on proper respiratory hygiene and cough etiquette to prevent the spread of respiratory infections among workers.*

*(vii) Install proximity detection systems on heavy machinery to alert operators of nearby workers and prevent collisions and crush injuries. Establish designated walkways and traffic zones within the mining site to separate pedestrian and vehicle traffic and reduce the risk of accidents. Conduct ergonomic assessments of workstations and equipment to identify and mitigate ergonomic risk factors contributing to musculoskeletal injuries.*

*(viii) Provide Personal Protective Equipment (PPE) to all employees to mitigate residual impacts effectively. Ensure that PPE kits are regularly refreshed and samples are periodically tested to maintain their effectiveness in safeguarding the health and safety of workers against any potential hazards encountered during mining operations.*

*(ix) Implement a comprehensive hearing conservation program, including annual audiometric testing and noise exposure monitoring for all workers. Utilize advanced noise control technologies such as silencers, mufflers, and acoustic enclosures to reduce noise emissions from equipment and machinery. Provide regular training sessions on the proper use and maintenance of hearing protection devices to ensure maximum effectiveness and compliance.*

*(x) Substitute hazardous chemicals with environmentally friendly alternatives wherever feasible to minimize the risk of chemical exposure to workers and the surrounding environment. Implement a chemical management system to track the handling, storage, and disposal of hazardous substances and ensure compliance with safety regulations. Conduct regular inspections and audits of chemical storage areas to identify and address potential leaks, spills, or contamination risks.*

*(xi) Offer stress management workshops and resilience training programs to help workers cope with the demands and challenges of mining work. Establish a peer support network or buddy system to encourage social connections and provide emotional support among workers. Promote work-life balance initiatives, and recreational activities to enhance overall well-being and job satisfaction.*

*(xii) Develop and regularly update emergency response plans and procedures to address potential mine accidents, including fires, explosions, and collapses.*

*(xiii) Conduct emergency response drills and simulations involving both onsite personnel and local emergency services to ensure readiness and coordination in the event of a crisis.*

*(xiv) Provide specialized training for designated emergency response teams to effectively handle emergency situations and assist with rescue and evacuation efforts.*

*(xv) Implement robust water management practices, including regular monitoring of water quality parameters such as pH, turbidity, and heavy metal concentrations.*

*(xvi) Implement a zero-water discharge policy and establish water bodies within the vicinity to facilitate the treatment and provision of water for the local community. Install sedimentation ponds and filtration systems to capture and treat runoff from mining activities before it enters local water bodies.*

*(xvii) Collaborate with local communities and regulatory authorities to establish a comprehensive water monitoring program to detect and mitigate any signs of contamination promptly.*

*(xviii) Implement land reclamation and rehabilitation measures, to restore disturbed areas and minimize erosion and sedimentation.*

*(xix) Establish buffer zones and conservation areas around sensitive ecological habitats to preserve biodiversity and ecosystem services in the surrounding area.*

*(xx) Conduct regular soil sampling and analysis to assess nutrient levels and soil health parameters and guide appropriate remediation and restoration efforts.*

*(xxi) Collaborate with local agricultural extension services and farmers to promote sustainable land management practices and mitigate the impact of mining on agricultural productivity.*

*(xxii) Establish a systematic approach to managing Overburden Dumps, Coal Dumps, Spoil Heaps, Reject Dumps, and Tailings Dumps to ensure minimal impact on soil and land fertility. Adhere to industry best practices and regulatory guidelines when siting and managing these dumps to safeguard soil quality and preserve land fertility throughout the mining operation's lifecycle.*

*(xxiii) Provide training and support to local farmers on safe agricultural practices, including proper irrigation techniques and soil management strategies.”*

53. The Committee asked the PP to provide a comparison of diseases in coal bearing area and non-coal bearing area. PP vide letter dated 05.07.2024 submitted village- wise data of diseases occurred in last three years from Gharghoda area (Non-Coal bearing area) & last one year (2023-24) from Tamnar area (Coal bearing area), obtained from Chief Medical Health Officer, Raigarh District. From the data submitted, it is observed that major diseases occurred in non-coal bearing area are TB, Leprosy, Sickle

and Diarrhoea. No case has been reported of Silicosis. For coal bearing area major diseases are TB, Sickle cell, Diarrhoea and few cases of Malaria were found. It can be seen from above that the disease occurred in the coal bearing and non-coal bearing area are similar which shows that coal mining does not have much adverse impact on the occurrence of diseases in the area. The Committee observed that although there is no mining-specific disease in the data given by local health authorities but PP shall organise medical health camps to monitor the health status of the nearby community to keep a check on any mining-induced disease. Further, the Committee is of the view that PP shall provide free health facilities, medicines etc. to PAFs and nearby communities. Additionally, financial assistance is to be provided for critical illnesses such as cancer, organ failure/transplant etc. under CSR budget on a case-to-case basis. The Committee is of the view that these are in addition to the Occupational health plan required for mine workers as per the requirement of DGMS.

54. Learned Counsel for the Appellant has raised the issue of competence of the CIMFR to undertake this study.
55. In reply thereof, the Counsel for the Project Proponent has argued that this institute specifically works in the field of mining related sector and more suited to undertake the studies in this field. Therefore, its capability to undertake health related issues cannot be challenged. It is further informed by the Project Proponent that the one doctor in the field of medical profession along with other professions was also part of the team which undertook the study and suggested mitigation measures, considering the health issues likely to come up in the area.
56. On the basis of above, the EAC resolved as follows:-

*“17) The EAC has also taken into consideration additional information for appraisal such as additional hydrogeological study; health impacts of the proposed mine including health study which also took into account the ICMR study and the information about the prevalent local disease data of the area supplied by state health authorities (as asked for by the EAC); additional carrying capacity study; revised EMP/ EIA; fresh baseline data; mathematical modelling using TMY data and site specific data rather than standard data; Comprehensive Environmental Pollution Index (CEPI data) & CAAQMS data; socio economic study; Ecology of the surrounding area and post-mining ecological restoration; NEERI report; site visit and public hearing/consultation process including NOC from various gram sabhas (based on gram sabha meetings conducted for FC clearance) while re-appraising this proposal.*

*18) Based on the discussions held and the documents submitted, the EAC recommended the proposal for Environment Clearance of Gare Palma Sector II Coal Mine Project of 23.6 MTPA Capacity (22.0 MTPA Opencast + 1.6 MTPA Underground) within the mining lease area of 2583.487 Ha located at Thili Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, JhinkaBahal, Dolesara, Bhalumura, Sarasmal and Libra villages, Tamnar Tehsil, Raigarh District, Chhattisgarh State by of Maharashtra State Power Generation Company Ltd (MAHAGENCO) under EIA Notification, 2006 (as amended) subject to the compliance of the following specific conditions in addition to the Standard EC conditions.”*

The EAC has also laid down specific conditions.

57. The Committee/EAC has further recommended as follows:-

*“8) PP shall implement the recommendations of NEERI Report within the lease area.*

*9) The social fabric of the area needs to be kept intact, accordingly, the R&R plans should be made such that the Cultural and religious beliefs of the locals are protected. Further, PP shall prepare and implement a mitigative plan based on the guiding principles provided in the Socio-Economic Report prepared by the Entrepreneurship Development Institute of India, Ahmedabad (EDII) within six months. The budget proposed for addressing the issues of PH under CER as*

*per the last EC was 45.35 Cr for 5 years. PP shall ensure that sufficient funds shall be allocated for the same keeping in mind that activities are to be carried out for at least 10 years. PP shall submit a time-bound, activity-wise plan with budgetary provisions to the Ministry. After preparation of the plan, PP shall submit the action taken with documentary proof viz. photographs, the amount spent etc. to the concerned RO in six monthly compliance reports. Separate audited accounts shall be maintained. All the recommendations made in the Socio-economic & Social Impact Assessment study shall be complied within a stringent timeframe. The timeline should be submitted to the District Collector for necessary action points.*

*10) All the recommendations made in the Socio-economic & Social Impact Assessment study shall be complied within a stringent timeframe. The timeline should be submitted to the District Collector for necessary action points.*

*11) PP shall implement the following recommendations made in CSIR-CIMFR report "Advice on mitigation measures to be adopted for the villagers of the GPII coal block area in Tamnar, District Raigarh, Chhattisgarh.":*

*a) Design and operate the mine with a focus on minimizing dust generation during coal and Overburden (OB) production processes. Employ advanced technologies and engineering solutions to mitigate dust emissions at the source.*

*b) Implement transportation methods that prevent the exposure of dust to the ambient air. Utilize In-Pit Crushing and Conveying (IPCC) or High Angle Conveying (HAC) mechanisms for material handling and transport to minimize airborne dust."*

58. The EAC has further examined and recommended in the report for the plan to protect the ecology and the post-mining ecological installation plan Gare Palma-II Mine Project under consideration and for implementation of the recommendation made in the Carrying Capacity Report undertaken by the CECB, Chhattisgarh. There is a term and condition that third party audit by NEERI/CIMR/IIT/NITs for air and water quality shall be carried out annually to keep a check on the same and the PP shall implement the recommendations of the audit and submit the outcome of the audit to the

concerned RO of MOEF&CC. During the discussion the EAC has discussed the directions given in the order of the NGT dated 15.02.2022 and other orders and relevant rules and specific condition has been laid down while recommending for grant of the EC.

59. Learned counsel for the Appellant has submitted that the NEERI Report records toxic level of ground water contamination in the area and the hydrology study and embankment design report submitted by IIT (ISM), Dhanbad, fails to assess the ground water status, quality on the impact of the project proponent.
60. In reply thereof, the learned Counsel for the Project Proponent and the ASG has submitted that the report of the NEERI and suggestions for the NEERI have been recommended to be implemented while considering the project.
61. The learned Counsel for the Appellant has further raised the issue of study of the seepage into the mine from the kelo river.
62. In this response to the above contention, it is argued that the matter of these increased siltation in the Kelo river was seriously discussed by the EAC and the Committee observed that as per report the increased siltation in the Kelo River due to material handling activities within the mine lease is a real possibility. Studies carried out by CWPRI in the Mahanadi basin have given a value of annual average sedimentation load as 466 tonnes/sq.km for the Mahanadi basin. The calculations done for the various land uses of the mine clearly indicates that the siltation from the mine lies well below the average limits given for this Basin. The Committee is of the view that the measures suggested in the report to mitigate the siltation on the Kelo River and its catchment must be followed by the PP which includes i) The mining activities will be restricted by maintaining a

minimum distance of 100 m between the riverbank and mine pit boundary, avoiding disturbance to the riverbed and natural soil and aquifer characteristics, ii) The garland drains shall be provided for collection of surface runoff at the peripheral boundary of embankment which will also arrest the sediment load, by settling, and treating the water before releasing it back into the Kelo River. iii) The seepage water from the Kelo River to the mine pit will be collected into the mine pit and pumped to the surface and after proper treatment the same will be released for the possible secondary utilization by the local communities. iv) Implementing strict material handling and sediment control measures, and regularly monitoring the river's flow, water quality, and sedimentation levels. v) By implementing these mitigation measures and continuously monitoring the Kelo River's health, the potential impacts of the mining activities can be minimized, ensuring the river's long-term sustainability and its ability to support the dependent ecosystems and communities.

63. With regard to observation of NGT that "Siltation in the river will also impact its flow and disturb its path", the Committee observed that, IIT-ISM Dhanbad proposed that the mining activities be restricted by maintaining a minimum distance of 100 m between the riverbank and mine pit boundary, avoiding disturbance to the riverbed and natural soil and aquifer characteristics. Report also suggested implementing strict material handling and sediment control measures, and regularly monitoring the river's flow, water quality, and sedimentation levels. In addition to this, the report suggested that the garland drains shall be provided for collection of surface runoff at the peripheral boundary of embankment which will also arrest the sediment load, by settling, and treating the water before releasing it back into the Kelo River. The

Committee also noted that report provides the impact of seepage of Kelo River into the mine working area wherein it has mentioned that "Detailed analysis of seepage and mine water generated, it is evident that the anticipated amount of water to be dewatered from the mine on a daily basis comes out to be very less as compared to the mean daily flow of Kelo River, which is going to remain less than a maximum value of 0.12% in the near future (till the year 2028-29). The detailed estimate on the mine water seepage and dewatering is submitted. The impact of seepage and mine dewatering on the Kelo River flow will be negligible.

64. The Committee observed in the report submitted by IIT IIS (Dhanbad) that, the mean discharge of the Kelo river for the period between 1958 to 2023 is 15,50,880 KLD. Over analysis of the impact of mining on the flow of Kelo river dictated that the total water requirement for the mining related activities is 2785 KLD. Out of which 1785 KLD is fresh water and 1000 KLD will be fulfilled from recycled water. Further, out of 1785 KLD water, 1454 KLD water will be met from groundwater with due permission of CGWA. The remaining 331 KLD of freshwater will be taken from Kelo river which is merely 0.021% of the mean daily discharge of Kelo river. This signifies very less impact on the flow of Kelo river. Further, IIT ISM team shown "anticipated amount of water to be dewatered from the mine, which is going to remain less than a maximum value of 0.12% in the near future (till the year 2028-29)" which shows that the impact of seepage and mine dewatering on the Kelo River flow will be negligible. The Committee observed that w.r.t observation of Hon'ble NGT for making arrangement for embankment all along Eastern and Western bank of Kelo river, affecting natural flood plain zone of the river. The PP submitted that in the report submitted by IIT ISM that the team proposed embankment along

the eastern and western bank of Kelo river. DGMS mandated only 15 meters from either bank of a river, however IIT (ISM) team also proposed that a minimum distance of 100 m between the river and the mine pit boundary shall always be maintained at different sections of the river. In the said report IIT ISM team has proposed a detailed design for the embankment along the Kelo river and natural water flow. It also has been recommended that the height of the embankment shall vary from 2m to 9m on the right bank and from 4m to 9m on the left bank. It is further recommended to strengthen the embankment on the riverside by placing large boulders in wire net bags. The embankment will also be stabilised by road rollers and vibrators followed by plantation of grass and bushes. The HDPE geomembrane lining is to be provided in the embankment. The apron provided at the base of the embankment will help in considerably reducing the seepage through the base of the embankment. In addition, the central core layer will have interlocking arrangement at the base to avoid seepage from the base.

65. The Committee observed that w.r.t to observation of NGT i.e “High flood level of the river has been taken for a very small period of 1996-97 to 2002 03, though it should be of the period of last 50 or 100 years”. In this regard PP submitted that long term Rainfall data of the gauge station in Raigarh, and the discharge values (inflow to the river from the reservoir) collected and used from 1958 to 2006 (48 years) to develop a rainfall-runoff model. EE, Kelo project Yojna also provide a letter for the same. Further, due to unavailability of discharge value from year 2007 to 2023, the total runoff volume was further used to predict the discharge values. Hence the runoff for this period was determined by developing a statistical rainfall-runoff model from annual rainfall data which was available from

1958 to 2023. In addition to the observations of NGT, the Committee also deliberated on the groundwater in the said area. The report of IIT – ISM Dhanbad states, that to study the impact of mining on the water quality, the groundwater samples were collected from 14 nearby villages of GARE-PALMA II, Coal Block mining region and also from u/s and d/s of Kelo river. Different physico-chemical parameters were assessed. These parameters were then integrated to develop a water quality index (WQI), through which the drinking water suitability of groundwater is determined. The analysis of WQI values of the groundwater samples shows that all the samples fall in the category of excellent to Good, which means that groundwater of the region has not experienced any significant deterioration on account of mining activities. The pH of most of the water samples lies in the permissible limit as prescribed by BIS showing that mine related seepage is not occurring in the groundwater table of the region. Some samples have moderate turbidity values while the other major parameters fall under the permissible limits. This means that “muddy” nature of the groundwater can be tackled by simple filtration units without requiring any advanced filtration system. The water quality of the surface water samples collected from the upstream and downstream section of the river falls in the “Good” category. The Committee also referred to the Water quality report submitted by NEERI, wherein, at some of the locations, values of arsenic, nickel, iron, manganese, fluoride and such other minerals were found beyond the permissible limits. However, as per the EIA report, Hydrogeological study conducted by IIT (ISM) Dhanbad, carrying capacity study conducted by IIT Patna no such observation was made. The Committee also had gone through the CGWA report 2020, prepared for Tamnar block Raigarh district, as per report no

arsenic contamination in groundwater was found in any sample collected in Tamnar block. The committee also reviewed the NEERI report for the Tamnar block wherein certain groundwater parameters indicate toxic levels. However these cannot be ascribed to the proposal under consideration since the mine has not started operations. Further, the Committee is of the view that PP shall monitor all these parameters, take mitigation measures if required and submit a report to the concerned RO of MoEF&CC in six monthly report. Safe drinking water shall be supplied to all residents of the ML area. The Committee is of the view that the PP shall implement the recommendation made in the report of IIT (ISM) Dhanbad in addition to this the Committee is of the view that PP shall optimize the water requirement and also augment or harvest the water by rainwater harvesting measures. PP shall monitor the water quality surface as well as groundwater for the presence of heavy metals. In addition to this, a water audit needs to be done every year for the reduction of specific water consumption by various means. The committee observed that all points w.r.t hydrology raised in the judgement of Hon'ble NGT have been adequately addressed in the above additional study by IIT-ISM Dhanbad.

66. In the Specific Condition point No.1.2 and 1.3, the care has been taken with regard to the recommendations made in the Hydrology & Embankment Design Report, discharge from the garland drain, water sweeping into the mine, statutory barrier, the possibility of an AI based real time water quality and other factors as reported by this Report Committee.
67. Further submission of the learned Counsel for the MoEF&CC are that the project in question was granted Environmental Clearance (EC) vide letter dated 11.07.2022, following the prescribed procedure under EIA

Notification 2006. However, the Hon'ble National Green Tribunal (NGT), vide Judgment dated 15.01.2024 in Appeal No.26 of 2022 (*Kanhai Ram Patel & Ors. Vs. Union of India & Ors.*), quashed the EC and directed the answering respondent to "re-examine the matter from the stage of conducting public consultation afresh. If additional appropriate study material is submitted by the project proponent, the same may be appraised, and a fresh decision on the prior EC may be taken by the MoEF&CC in accordance with the law and the existing state of environment and ecology. That in compliance with the NGT's Judgment dated 15.01.2024, the answering respondent, vide letter dated 19.02.2024, directed the project proponent and the State Pollution Control Board (SPCB) to comply with the said Judgment. This demonstrates the clear intention of the answering respondent to adhere to the directives of the Hon'ble NGT. The Appellants' allegations that the Respondent disregarded the Tribunal's directions are baseless and frivolous and that pursuant to the NGT's directives, the Project Proponent (MAHAGENCO), vide letter dated 24.02.2024, requested the Expert Appraisal Committee (EAC) – Coal Mining to consider their proposal in the upcoming EAC meeting. The letter highlighted the following key points:-

- i. The Hon'ble NGT directed the MoEF&CC to re-examine the matter, and any additional study material submitted by MAHAGENCO should be appraised.
- ii. The GP-II Coal Mine is vital for ensuring fuel security for Maharashtra's Thermal Power Stations, addressing the growing public demand for power. MAHAGENCO has already invested approximately INR 1000 Crores in the Gare Palma Sector II project and INR 25,000 Crores in the linked Thermal

Power Stations. An additional investment of INR 13,000 Crores is projected for upcoming thermal power stations.

68. It is further argued that the Respondent placed the matter before the EAC during its 8<sup>th</sup> meeting held on 28.02.2024 and The EAC directed the project proponent to circulate all relevant documents, including the Hon'ble NGT Judgment dated 15.01.2024, to all committee members. The proposal was deferred for further deliberation and that in compliance with the EAC's direction, the project proponent, on 17.03.2024, circulated all relevant documents pertaining to the NGT judgment to the EAC and the answering respondent. The proposal was subsequently placed in the 9<sup>th</sup> EAC meeting held on 21.03.2024, during which the Committee deliberated on the issues highlighted by the Hon'ble NGT, such as Public Consultation, the Indian Council of Medical Research (ICMR) Report, the Hydrogeological Study, and the Carrying Capacity Study. The proposal was deferred for additional information. Following further submissions by the Project Proponent, the proposal was considered during the 11<sup>th</sup> EAC meeting held on 8-9<sup>th</sup> May 2024. The EAC deliberated on key issues, including the procedure for conducting Public Consultation and the Carrying Capacity Study, as directed by the Hon'ble NGT. The Committee deferred the proposal, seeking additional information, including: i. An updated Carrying Capacity Study of the Tamnar Block and Gharghoda Block in Raigarh District, Chhattisgarh. ii. A site visit report by the EAC Sub-Committee to gather first-hand information regarding the procedure followed during the Public Hearing conducted on 27.09.2019. iii. Comments from the Chhattisgarh Environment Conservation Board (CECB) on the Public Hearing conducted on 27.09.2019. It is stated that

the Sub-Committee conducted a site visit and reviewed the Public Hearing process conducted on 27.09.2019. Key observations included the need for:

- i. Public Hearing details conducted by the CECB on 27.09.2019.
- ii. Conducting a Carrying Capacity Study through IIT Bhilai or IIT Bombay.
- iii. Ensuring no diversion of the Kelo River and preserving its riparian zone.
- iv. Conducting a Health Assessment Study by AIIMS Raipur or a similar reputed institution.
- v. Addressing infrastructural challenges such as road conditions near the mine site.

The Sub-Committee recommended that the project be considered for EC after fulfilling these requirements. That upon submission of the requisite information by the Project Proponent (PP), as sought during the 11<sup>th</sup> EAC meeting, the proposal was placed before the 13<sup>th</sup> EAC meeting held on 1-2 July 2024. In compliance with the NGT Order dated 15.01.2024, the Committee deliberated on the proposal, addressing not only the specific issues highlighted by the NGT—such as public consultation, the ICMR report, the hydrogeological study, and the carrying capacity— but also the Terms of Reference (ToR) compliance, revised EIA/EMP report and the site visit report. The Committee further interacted with representatives of the Chhattisgarh Environment Conservation Board (CECB), IIT(ISM) Dhanbad, Central Institute of Mining and Fuel Research (CIMFR), Dhanbad, and Entrepreneurship Development Institute of India (EDII) Ahmedabad. It is noteworthy that the Project Proponent allocated a budget of INR 527.50 lakh to address issues raised during the public hearing.

69. It is further argued that the EAC also considered other relevant issues raised in the NGT's order, including:-

*“i. Hydrology and Embankment Design Report by IIT(ISM) Dhanbad.*

- ii. Report titled "Advice on mitigation measures to be adopted for the villagers of the Gare Palma –II coal block" by CSIR-CIMFR, Dhanbad.
- iii. Report titled "Additional carrying capacity and cumulative impact assessment study for Gare Palma-II coal mine project in Tamnar Block, Raigarh District, Chhattisgarh" facilitated by CECB, Chhattisgarh, through IIT Patna.
- iv. Revised EIA/EMP, incorporating fresh baseline data and mathematical modelling using TMY data and site-specific information by M/s. VARDAN ENVIRONET (QCI/NABET ACCREDITED) Consultant.
- v. Comprehensive Environmental Pollution Index (CEPI) data and CAAQMS data by CECB.
- vi. Socio-Economic Study Report for Gare Palma sector – II Coal Block, Tamnar Tehsil, Raigarh District, Chhattisgarh by EdII, Ahmedabad.
- vii. Report on plan for the protection of the ecology and post-mining ecological restoration plan for the Gare Palma-II coal mine project, Tamnar, Raigarh, Chhattisgarh by ISM Dhanbad.
- viii. Report on Water Sources in 14 Villages of Tamnar Block of Raigarh District, Chhattisgarh by National Environmental Engineering Research Institute (NEERI), Nagpur.
- ix. A site visit and public consultation process, including NOCs from various Gram Sabhas based on meetings conducted for forest clearance."

70. Based on the aforementioned deliberations and reports, the EAC recommended the proposal for grant of Environmental Clearance (EC) for the Gare Palma Sector II Coal Mine Project, with a production capacity of 23.6 MTPA (22.0 MTPA Opencast + 1.6 MTPA Underground) within a mining lease area of 2583.487 hectares located at Thili Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, JhinkaBahal, Dolesara, Bhalumura, Sarasmal and Libra villages, Tamnar Tehsil, Raigarh District, Chhattisgarh under the EIA Notification, 2006 (as amended), subject to stipulation of specific conditions in addition to standard EC conditions by duly addressing the

issues mentioned in the NGT's Judgment. Following the EAC's recommendation in compliance with the NGT order dated 15.01.2024, the Respondent granted Environmental Clearance (EC) vide letter dated 13.08.2024 to M/s Maharashtra State Power Generation Company Ltd (MAHAGENCO) for the Gare Palma Sector II Coal Mine Project of 23.6 MTPA Capacity (22.0 MTPA Opencast + 1.6 MTPA Underground) within the mining lease area of 2583.487 Ha located at Thili Rampur, Kunjemura, Gare, Saraitola, Murogaon, Radopali, Pata, Chitwahi, Dholnara, JhinkaBahal, Dolesara, Bhalumura, Sarasmal and Libra villages, Tamnar Tehsil, Raigarh District, Chhattisgarh under the EIA Notification, 2006 (as amended), subject to stipulation of specific conditions in addition to standard EC conditions and that the stipulated specific conditions inter-alia includes the recommendation arising out of additional reports.

71. Learned Counsel for the Appellant has raised the issue that the expert body or members of the EAC failed to apply the mind and based the decision on the expert report.
72. In reply thereof, the learned Additional Solicitor General appearing for the Respondent has submitted that the opinion of the experts is based on the scientific study which was submitted and placed before the Committee which are duly examined and relied on the decision of the Hon'ble Supreme Court in Transferred Case (Civil) No. 229 of 2020: (*Rajeev Suri Vs. Delhi Development Authority & Ors.*), where Hon'ble the Supreme Court in *Reliance Airport Developers*, (2006) 10 SCC 1, discussed the scope of judicial review in administrative action and noted thus:-

*"56. One of the points that falls for determination is the scope for judicial interference in matters of administrative decisions.*

*Administrative action is stated to be referable to broad area of governmental activities in which the repositories of power may exercise every class of statutory function of executive, quasi-legislative and quasi-judicial nature. It is trite law that exercise of power, whether legislative or administrative, will be set aside if there is manifest error in the exercise of such power or the exercise of the power is manifestly arbitrary (see State of U.P. v. Renuagar Power Co. [(1988) 4 SCC 59 AIR 1988 SC 1737] ). At one time, the traditional view in England was that the executive was not answerable where its action was attributable to the exercise of prerogative power. Professor de Smith in his classic work Judicial Review of Administrative Action, 4th Edn. at pp. 285-87 states the legal position in his own terse language that the relevant principles formulated by the courts may be broadly summarised as follows. The authority in which a discretion is vested can be compelled to exercise that discretion, but not to exercise it in any particular manner. In general, a discretion must be exercised only by the authority to which it is committed. That authority must genuinely address itself to the matter before it; it must not act under the dictates of another body or disable itself from exercising a discretion in each individual case. In the purported exercise of its discretion, it must not do what it has been forbidden to do, nor must it do what it has not been authorised to do. It must act in good faith, must have regard to all relevant considerations and must not be influenced by irrelevant considerations, must not seek to promote purposes alien to the letter or to the spirit of the legislation that gives it power to act, and must not act arbitrarily or capriciously...."*

*(emphasis supplied)*

73. Hon'ble Supreme Court then summed up the principles into two broad categories thus:

*"56. These several principles can conveniently be grouped in two main categories: (1) failure to exercise a discretion, and (ii) excess or abuse of discretionary power. The two classes are not, however, mutually exclusive. Thus, discretion may be improperly fettered because irrelevant considerations have been taken into account, and*

*where an authority hands over its discretion to another body it acts ultra vires."*

74. Hon'ble Supreme Court further added the grounds of non-application of mind to relevant factors and non-existence of facts and noted thus:

*"57. ... If the power has been exercised on a non-consideration or non-application of mind to relevant factors, the exercise of power will be regarded as manifestly erroneous. If a power (whether legislative or administrative) is exercised on the basis of facts which do not exist and which are patently erroneous, such exercise of power will stand vitiated..."*

75. In 1984 (3) All ER 935: *Reliance Airport Developers (P) Ltd. v. Airports Authority of India & Ors.*, Lord Diplock attempted to sum up the grounds of judicial review of administrative action under three broad heads and noted thus:

*"... Judicial review has I think developed to a stage today when, without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground I would call 'illegality', the second 'irrationality' and the third 'procedural impropriety'. That is not to say that further development on a case by case basis may not in course of time add further grounds. I have in mind particularly the possible adoption in the future of the principle of 'proportionality' which is recognised in the administrative law of several of our fellow members of the European Economic Community; but to dispose of the instant case the three already well-established heads that I have mentioned will suffice."*

*(emphasis supplied)*

76. Hon'ble Supreme Court succinctly summed up the position in (1994) 6 SCC 651: *Tata Cellular v. Union of India*, and observed thus:

*"94. The principles deducible from the above are:*

*(1) The modern trend points to judicial restraint in administrative action.*

*(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.*

*(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.*

*(emphasis supplied)*

77. In (2011) 7 SCC 639: *State of Madhya Pradesh v. Narmada Bachao Andolan*, the Hon'ble Supreme Court was dealing with an issue of rehabilitation of persons displaced due to the construction of the dam. It went on to observe that judicial interference in a policy matter is circumscribed, in the following words:

*"36. The Court cannot strike down a policy decision taken by the Government merely because it feels that another decision would have been fairer or more scientific or logical or wiser. The wisdom and advisability of the policies are ordinarily not amenable to judicial review unless the policies are contrary to statutory or constitutional provisions or arbitrary or irrational or an abuse of power. (See Ram Singh Vijay Pal Singh v. State of U.P. ((2007) 6 SCC 44], Villianur Iyarkkai Padukappu Maiyam v. Union of India (2009) 7 SCC 561] Union for Civil and State of Kerala v. Peoples Liberties [(2009) 8 SCC 46].)*

*37. Thus, it emerges to be a settled legal proposition that the Government has the power and competence to change the policy on the basis of ground realities. A public policy cannot be challenged through PIL where the State Government is competent to frame the policy and there is no need for anyone to raise any grievance even if the policy is changed. The public policy can only be challenged where it offends some constitutional or statutory provisions."*

*(emphasis supplied)*

78. In (1996) 9 SCC 709: *Tata Iron & Steel*, in paragraph 68, the Hon'ble Supreme Court noted that whenever the issues brought before the Court

are intertwined with those involving determination of policy and a plethora of technical issues, the Courts are very wary and must exercise restraint and not trespass into policy-making. Similarly, in *Narmada Bachao Andolan v. Union of India*, in paragraph 228, the Court noted that a project may be executed departmentally or by an outside agency as per the choice of the Government, whilst ensuring that it is done according to some procedure or set manner. Further, the Court should be loath to assume that the authorities will not function properly and that the Court should have no role to play. Later in 2007, the Hon'ble Supreme Court restated the position in Directorate of Film Festivals, as follows:-

*16. The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate Authorities examining the correctness, suitability and appropriateness of a policy, nor are courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review (vide Asif Hameed v. State of J&K [1989 Supp (2) SCC 364], Sitaram Sugar Co. Ltd. v. Union of India [(1990) 3 SCC 223], Khoday Distilleries Ltd. v. State of Karnataka [(1996) 10 SCC 304], BALCO Employees' Union v. Union of India ((2002) 2 SCC 333], State of Orissa v. Gopinath Dash [(2005) 13 SCC 495] and Akhil Bharat Goseva Sangh (3) v. State of A.P. ((2006) 4 SCC 162)).*

*(emphasis supplied)*

79. It is further argued by the learned Counsel for the Respondent that no case of prejudice whatsoever has been made out by the petitioners in the process of public consultation. It is well settled that principles of natural

justice are not an unruly horse. It would be an empty formality to permit large number of persons to raise same objections multiple times. An attempt was made to impress upon us that due to pandemic situation most of the objectors were unable to remain present on the specified day and time for hearing. As aforesaid, none of the petitioners have invited our attention to any objection taken by them in writing which was different than questions noted by the Authority which were common in all the objections received by it. Hence, even this plea raised by the petitioners is of no avail. In other words, though the petitioners have vehemently argued about denial of natural justice, the same has not been demonstrated sufficiently to meet the basic standards of judicial conscience so as to warrant our interference.

80. Indeed, principles of natural justice infuse life and blood into legal processes both judicial and administrative. However, the occasion of their application is not uniform and it cannot be stated as a proposition of blanket application that all administrative exercises are subject to unalterable and absolute standards of natural justice. In (2008) 9 SCC 31: *Haryana Financial Corporation & Anr. v. Kailash Chandra Ahuja*, the Hon'ble Supreme Court in para 36, observed thus: -

*"36.... Even in those cases where procedural requirements have not been complied with, the action has not been held ipso facto illegal, unlawful or void unless it is shown that non-observance had prejudicially affected the applicant."*

81. Hon'ble Supreme Court in (2005) 6 SCC 321: *Canara Bank v. V.K. Awasthy*, this Court highlighted the fundamental premise of natural justice and observed thus: -

*"9. The expressions "natural justice" and "legal justice" do not present a water-tight classification. It is the substance of justice which is to be secured by both, and whenever legal justice fails to achieve this solemn purpose, natural justice is called in aid of legal justice. Natural justice relieves legal justice from unnecessary technicality, grammatical pedantry or logical prevarication. It supplies the omissions of a formulated law. As Lord Buckmaster said, no form or procedure should ever be permitted to exclude the presentation of a litigants' defence."*

82. Reference could also be had to (1996) 3 SCC 364, *State Bank of Patiala & Ors. v. S.K. Sharma*, wherein the Hon'ble Supreme Court had noted thus:

*"32.... Justice means justice between both the parties. The interests of justice equally demand that the guilty should be punished and that technicalities and irregularities which do not occasion failure of justice are not allowed to defeat the ends of justice. Principles of natural justice are but the means to achieve the ends of justice. They cannot be perverted to achieve the very opposite end. That would be a counter-productive exercise."*

83. In (2005) 3 SCC 409: *Karnataka State Road Transport Corporation & Anr. v. S.G. Kotturappa & Anr.*, the Hon'ble Supreme Court observed thus:-,

*"24..... The question as to what extent, principles of natural justice are required to be complied with would depend upon the fact situation obtaining in each case. The principles of natural justice cannot be applied in vacuum. They cannot be put in any straitjacket formula. The principles of natural justice are furthermore not required to be complied with when it will lead to an empty formality...."*

*(emphasis supplied)*

84. Accordingly, the Appellants have not been able to demonstrate any case of denial of natural justice. On the point of non-application of mind, the Hon'ble Supreme Court in *Rajeev Soori* case held as follows:-

*"289. It is noticed that the argument of non-application of mind has been invoked by the petitioners, irrespective of the nature of body*

*whose decision has come to be assailed. The requirement of due application of mind is one of the shades of jurisprudential doctrine that justice should not only be done but seen to be done. It requires a decision-making body, judicial or quasi-judicial, to abide by certain basic tenets of natural justice, including but not limited to the grant of hearing to the affected persons. Rules of natural justice are not embodied rules. They are means to an end and not end in themselves. The goal of these principles is to prevent prejudice. It is from the same source that the requirement of application of mind emerges in decision making processes as it ensures objectivity in decision making. In order to ascertain that due application of mind has taken place in a decision, the presence of reasons on record plays a crucial role. The presence of reasons would fulfil twin objectives of revealing objective application of mind and assisting the adjudicatory body in reviewing the decision. The question that arises here is, whether the statement in the recorded minutes of the CVC meeting ("the features of the proposed Parliament building should be in sync with the existing Parliament building") is or is not indicative of application of mind.*

*290. In cases when the statute itself provides for an express requirement of a reasoned order, it is understandable that absence of reasons would be a violation of a legal requirement and thus, illegal. However, in cases when there is no express requirement of reasons, the ulterior effect of absence of reasons on the final decision cannot be sealed in a straightjacketed manner. Such cases need to be examined from a broad perspective in the light of overall circumstances. The Court would look at the nature of decision-making body, nature of rights involved, stakeholders, form and substance of the decision etc. The list is not exhaustive for the simple reason that drawing a conclusion of non-application of mind from mere absence of reasons is a matter of pure inference and the same cannot be drawn until and unless other circumstances too point in the same direction. The aforesaid factor of nature of rights has been considered by this Court in E.G. Nambudiri thus:-*

*"8. The question is whether principles of natural justice require an administrative authority to record reasons. Generally, principles of natural justice require that opportunity of hearing should be given to the person against whom an administrative order is passed. The application of principles of natural justice,*

*and its sweep depend upon the nature of the rights involved, having regard to the setting and context of the statutory provisions. Where a vested right is adversely affected by an administrative order, or where civil consequences ensue, principles of natural justice apply even if the statutory provisions do not make any express provision for the same, and the person concerned must be afforded opportunity of hearing before the order is passed. But principles of natural justice do not require the administrative authority to record reasons for its decision as there is no general rule that reasons must be given for administrative decision.*

*Order of an administrative authority which has no statutory or implied duty to state reasons or the grounds of its decision is not rendered illegal merely on account of absence of reasons. It has never been a principle of natural justice that reasons should be given for decisions. See: Regina v. Gaming Board for Great Britain, ex p. Benaim and Khaida, (1990) 2 QB 417 at 431.*

*(emphasis supplied)*

291. *It is settled that in cases where individual rights are affected by the decision, an opportunity of being heard and application of mind couched in the form of reasons form part of the jurisprudential doctrine. Such cases need to be distinguished from cases which do not impinge upon individual rights and involve ordinary administrative processes. For, similar standards cannot be deployed to decide both these cases. When petitioners allege illegality on a ground such as absence of reasons in a pure administrative process, they must bear the burden to demonstrate the requirement of reasons in the first place. It is not as if reasons are mandatory in all decisions. What we are dealing with is the opinion of an advisory (administrative) body which is appointed by the same Government which calls for its advice and not to adjudicate upon rights of individuals. Even if we assume that the no objection by an advisory body would have the effect of affecting the objectivity of the final decision, the fact remains that it does not take the final decision. It is meant to invoke its expertise in light of the subject proposal placed before it and advise the Government as regards the feasibility of the proposed development in connection with the existing central vista region. The final decision would be that of the competent authority of*

*the concerned department. Furthermore, what purpose would it serve to entangle an advisory body into rigidity of recording elaborate reasons when its advice is not going to affect any stakeholder whatsoever nor can be made the basis to challenge the final decision of the competent authority. Not being a statutory body, its opinion has no finality attached to it nor could be appealed against to superior forum. Undeniably, in the process of decision-making, the Government may choose to consult as many bodies and agencies as it desires and opinion of every such advisory body cannot be assailed by supplying fictional standards without keeping in view the nature of body and context of advice.*

292. *In E.G. Nambudiri, this Court noted as to how mere absence of reasons may not render the decision to be illegal thus:*

*"6... Ordinarily, courts and tribunals, adjudicating rights of parties, are required to act judicially and to record reasons. Where an administrative authority is required to act judicially it is also under an obligation to record reasons. But every administrative authority is not under any legal obligation to record reasons for its decision, although, it is always desirable to record reasons to avoid any suspicion. Where a statute requires an authority though acting administratively to record reasons, it is mandatory for the authority to pass speaking orders and in the absence of reasons the order would be rendered illegal.*

*But in the absence of any statutory or administrative requirement to record reasons, the order of the administrative authority is not rendered illegal for absence of reasons. If any challenge is made to the validity of an order on the ground of it being arbitrary or mala fide, it is always open to the authority concerned to place reasons before the court which may have persuaded it to pass the orders...."*

*(emphasis supplied)*

293. *Had it been a case of any other administrative committee required to adjudicate upon the rights of individuals, merely because it is not mandatory to record reasons would not absolve it of the requirement of objective consideration of the proposal. The ultimate enquiry is of application of mind and a reasoned order is merely one*

element in this enquiry. In a given case, the Court can still advert to other elements of the decision-making process to weigh the factum of application of mind. The test to be applied in such a case would be of a reasonable link between the material placed before the decision-making body and the conclusion reached in consideration thereof. The Court may decide in the context of overall circumstances of the case and a sole element (of no reasons or lack of elaborate reasons) cannot be enough to make or break the decision as long as judicial mind is convinced of substantial application of mind from other circumstances. Even in common law jurisprudence, there is no absolute requirement of reasoned order in all decisions. In *Lonrho plc v. Secretary of State for Trade and Industry & Anr.*, it was contended that the decision is not based on convincing reasons and therefore, must be declared as illegal. The House of Lords refused to entertain this contention and noted that mere absence of reasons would not render the decision as irrational. Lord Keith, in his opinion, noted that the only significance of absence of reasons would be that if circumstances overwhelmingly point towards conclusion that the one reached by the body, it would be fatal. He noted thus:

*"The absence of reasons for a decision where there is no duty to give them cannot of itself provide any support for the suggested irrationality of the decision. The only significance of the absence of reasons is that if all other known facts and circumstances appear to point overwhelmingly in favour of a different decision, the decision-maker who has given no reasons cannot complain if the court draws the inference that he had no rational reason for his decision."*

In *Administrative Law*, P.P. Craig notes that it is relevant to consider the context in which decision operates thus:

*"The court will consider the nature of the decision maker, the context in which it operates and whether the provision of reasons is required on grounds of fairness, "*

Mr. Craig also refers to *R. v. Ministry of Defence, Ex p. Murray* wherein certain principles relating to duty of reasons were elaborated. Lord Chief Justice Bingham, in his opinion, observed that the requirement of giving reasons may be outweighed by concerns of public interest in certain cases, for instance, when it would unduly burden the decision maker. We are not importing any rider of public

*interest to negate the requirement of reasons; however, the above exposition is useful to understand the effect of absence of reasons on an otherwise legal, rational and just decision.*

*294. Notably, this Court in Maharashtra State Board and in Mahabir Jute Mills noted that if the function/decision of the Government is administrative, in law, ordinarily there is no requirement to be accompanied by a statement of reasons unless there is an express statutory requirement in that regard. Again, in Sarat Kumar Dash, the Court observed that in the field of administrative action, the reasons are link between maker of the order or the author of the decision and the order itself. The record can be called to consider whether the author had given due consideration to the facts placed before him before he arrives at the decision.*

*295. Therefore, the requirement of reasons in cases which do not demand it in an express manner is based on desirability and the same is advised to the extent possible without impinging upon the character of the decision-making body and needs of administrative efficiency.”*

85. Thus, from the above it emerges that even if the order/notification is void/voidable, the party aggrieved by the same cannot decide that the said order/notification is not binding upon it. It has to approach the court for seeking such declaration. The order may be hypothetically a nullity and even if its invalidity is challenged before the court in a given circumstance, the court may refuse to quash the same on various grounds including the standing of the petitioner or on the ground of delay or on the doctrine of waiver or any other legal reason. The order may be void for one purpose or for one person, it may not be so for another purpose or another person.
86. The SEIAA/EAC members are expert in their domain fields and apprised the proposal, through scrutiny and detailed deliberations are done by the members. Therefore, the deliberations taken place in the meeting are always of technical nature. The objections and clarifications of the Project

Proponent have been complied on various issues raised by the SEAC members and the proposal was recommended. The expert finding cannot be questioned and this can be relied on the following law points:-

**“A. Rajeev Suri v. Delhi Development Authority [2021 SCC OnLine SC 7]**

*“494. The minutes of the two meetings of EAC are selfexplanatory and reveal due application of mind, in light of the principles relating to application of mind enunciated above. We do not wish to repeat the same to avoid prolixity. EAC is an expert body and it is amply clear that it has been made aware of all relevant information relating to the project and it has applied its mind to the proposal. Even on settled principles of judicial review, it is clear that relevant material has been considered by the committee and no reliance has been pointed out on any irrelevant material. The specific recommendations given by the committee do indicate that the committee was aware of the need for precautionary measures in environmental matters and accordingly, it suggested requirement of further permissions on certain counts.*

*495. Once an expert committee has duly applied its mind to an application for EC, any challenge to its decision has to be based on concrete material which reveals total absence of mind. Absent that material, due deference must be shown to the decisions of experts. The facts of the case do not reveal any deliberate concealment of fact/information from the EAC or supply of any misinformation....*

*515. We, therefore, upon a thorough examination, decline to interfere in the grant of EC. The expertise developed by the EAC cannot be undermined in a light manner and as noted above, due deference must be accorded to expert agencies when their 384 decisions do not attract the taint of legal unjustness”.*

**B. N.D. Jayal & Anr. vs. Union of India [2004 (9) SCC 362]: A 3-Judge Bench of the Hon'ble Supreme Court emphasized the exercise of judicial restraint in matters involving technical expertise.**

*20. This Court cannot sit in judgment over the cutting edge of scientific analysis relating to the safety of any project. Experts in*

science may themselves differ in their opinions while taking decisions on matters related to safety and allied aspects. The opposing viewpoints of the experts will also have to be given due consideration after full application of mind. When the Government or the concerned authorities after due consideration of all viewpoints and full application of mind took a decision, then it is not appropriate for the Court to interfere. Such matters must be left to the mature wisdom of the Government or the implementing agency. It is their forte. In such cases, if the situation demands, the Courts should take only a detached decision based on the pattern of the well settled principles of administrative law. If any such decision is based on irrelevant consideration or non consideration of material or is thoroughly arbitrary, then the Court will get in the way. Here the only point to consider is whether the decision making agency took a well informed decision or not. If the answer is yes then there is no need to interfere. The consideration in such cases is in the process of decision and not in its merits.

21. In this context, reliance is sought to be placed on the decision of this Court in *A.P. Pollution Control Board v. Prof. M.V. Nayudu (Retd.) and Ors.*, 1999 (2) SCC 718. In that decision, this Court viewed that in scientific matters of complex nature resulting in uncertainty, reference has to be made to a specialised technical/expert body and not merely decide the matter on well known principles of administrative law of court not reexamining the matter if all relevant considerations have been taken note of. In the present case when once a decision had been given by this Court on safety aspects on an earlier occasion and thereafter the matter was again examined by the Government through different agencies and had taken a decision as to the necessity of further test by way of abundant caution should be relevant or not, we do not think, we can sit in judgment over such decision, particularly when there is no difference of opinion among the Experts as to the safety of the dam.

**C. Sam Built Well Private Limited vs Deepak Builders [2018 (2) SCC 176]:**

This judgement was rendered by the Hon'ble Supreme Court in the context of judicial review of tenders. However, several observations were made qua exercising judicial restraint in matters involving technical expertise.

12. We have already noticed that three expert committees have scrutinized Respondent No. 1's tender and found Respondent No. 1 to be ineligible. The impugned judgment of the Division Bench of the High Court expressly states that no malafides are involved in the present case. Equally, while setting aside the judgment of the learned Single Judge, the Division Bench does not state that the three expert committees have arrived at a perverse conclusion. To merely set aside the judgment of the learned Single Judge and then jump to the conclusion that Respondent No. 1's tender was clearly eligible, would be directly contrary to the judgments aforesaid. Not having found malafides or perversity in the technical expert reports, the principle of judicial restraint kicks in, and any appreciation by the Court itself of technical evaluation, best left to technical experts, would be outside its ken. As a result, we find that the learned Single Judge was correct in his reliance on the three expert committee reports. The Division Bench, in setting aside the aforesaid judgment, has clearly gone outside the bounds of judicial review. We, therefore, set aside the judgment of the Division Bench and restore that of the learned Single Judge.

**D. Bombay Environmental Action Group vs State of Maharashtra [1990 SCC OnLine Bom 357]:**

The Hon'ble High Court of Bombay made several observations discouraging judicial interference in technical matters pertaining to the environment. 16. The, petitioners, as public spirited organisations and citizens, have, through their respective Counsel, done their duty by invoking this Courts writ jurisdiction and placing before us all such facts and circumstances as considered best by them. We in our turn, have done our duty by carefully examining all the facts and circumstances in the context of the rival contentions advanced before us on either side. In the course of this elaborate exercise and at every stage of the judicial process, we have kept asking ourselves the question -- Have the authorities shown such lack of awareness or have they been so oblivious of the needs of environment as to warrant Courts interference? We do not think so. On the contrary, considerable though deliberation, consultation and application of mind by all concerned authorities and experts has gone into the decision making process. We find on the part of the authorities, and experts all the seriousness while considering and deciding upon the

*varied factors and circumstances including environment in relation to this project. The indepth analysis, the conditions imposed and the precautions taken inspire Courts confidence and, if, at the end of it all, the Court finds that a very conscious decision has been taken in the light of all possible pros and cons, it would then not interfere. The decision of the authorities cannot be said to be arbitrary or capricious or one not in good faith or actuated by improper motive or extraneous considerations.*

*17. Environmental issues are relevant and deserve serious consideration. But the needs of the environment require to be balanced with the needs of the community at large and the needs of a developing country. If one finds, as in this case, that all possible environmental safe-guards have been taken, the check and control by way of judicial review should then come to an end. Once an elaborate and extensive exercise by all concerned including the environmentalists, the State and the Central authorities and expert-bodies is undertaken and effected and its end result judicially considered and reviewed, the matter thereafter should in all fairness stand concluded. Endless arguments, endless reviews and endless litigation in a matter such as this, can carry one to no end and may as well turn counterproductive. While public interest litigation is a welcome development, there are nevertheless limits beyond which it may as well cease to be in public interest any further.”*

87. While economic development should not be allowed at the cost of ecology or by causing widespread environmental destruction, the necessity to preserve ecology and environment should not hamper economic and other development. Both development and environment must go hand in hand. In other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment [*Indian council for enviro-legal action v union of India* [1996]5 SCC 281]. The traditional concept that development and ecology are opposed to each other is no longer acceptable [*Vellore Citizens Welfare Forum v. Union of India* [1996] 5 SCC 647].

88. In a constitutional framework which is intended to create, foster and protect a democracy committed to liberal values, the rule of law provides the cornerstone. The rule of law is to be distinguished from rule by the law. The former comprehends the setting up of a legal regime with clearly defined rules and principles of even application, a regime of law which maintains the fundamental postulates of liberty, equality and due process. The rule of law postulates a law which is answerable to constitutional norms. The law in that sense is accountable as much as it is capable of exacting compliance. Rule by the law on the other hand can mean rule by a despotic law. It is to maintain the just quality of the law and its observance of reason that rule of law precepts in constitutional democracies rest on constitutional foundations. A rule of law framework encompasses rules of law but it does much more than that. It embodies matters of substance and process. It dwells on the institutions which provide the arc of governance. By focusing on the structural norms which guide institutional decision making, rule of law frameworks recognize the vital role played by institutions and the serious consequences of leaving undefined the norms and processes by which they are constituted, composed and governed. A modern rule of law framework is hence comprehensive in its sweep and ambit. It recognizes that liberty and equality are the focal point of a just system of governance and without which human dignity can be subverted by administrative discretion and absolute power. Rule of law then dwells beyond a compendium which sanctifies rules of law. Its elements comprise of substantive principles, processual guarantees and institutional safeguards that are designed to ensure responsive, accountable and sensitive governance.

89. The environmental rule of law, at a certain level, is a facet of the concept of the rule of law. But it includes specific features that are unique to environmental governance, features which are sui generis. The environmental rule of law seeks to create essential tools – conceptual, procedural and institutional to bring structure to the discourse on environmental protection. It does so to enhance our understanding of environmental challenges – of how they have been shaped by humanity’s interface with nature in the past, how they continue to be affected by its engagement with nature in the present and the prospects for the future, if we were not to radically alter the course of destruction which humanity’s actions have charted. The environmental rule of law seeks to facilitate a multi- disciplinary analysis of the nature and consequences of carbon footprints and in doing so it brings a shared understanding between science, regulatory decisions and policy perspectives in the field of environmental protection. It recognizes that the ‘law’ element in the environmental rule of law does not make the concept peculiarly the preserve of lawyers and judges. On the contrary, it seeks to draw within the fold all stakeholders in formulating strategies to deal with current challenges posed by environmental degradation, climate change and the destruction of habitats. The environmental rule of law seeks a unified understanding of these concepts. There are significant linkages between concepts such as sustainable development, the polluter pays principle and the trust doctrine. The universe of nature is indivisible and integrated. The state of the environment in one part of the earth affects and is fundamentally affected by what occurs in another part. Every element of the environment shares a symbiotic relationship with the others. It is this inseparable bond and connect which the environmental rule of law seeks

to explore and understand in order to find solutions to the pressing problems which threaten the existence of humanity. The environmental rule of law is founded on the need to understand the consequences of our actions going beyond local, state and national boundaries. The rise in the oceans threatens not just maritime communities. The rise in temperatures, dilution of glaciers and growing desertification have consequences which go beyond the communities and creatures whose habitats are threatened. They affect the future survival of the entire ecosystem. The environmental rule of law attempts to weave an understanding of the connections in the natural environment which make the issue of survival a unified challenge which confronts human societies everywhere. It seeks to build on experiential learning's of the past to formulate principles which must become the building pillars of environmental regulation in the present and future. The environmental rule of law recognizes the overlap between and seeks to amalgamate scientific learning, legal principle and policy intervention. Significantly, it brings attention to the rules, processes and norms followed by institutions which provide regulatory governance on the environment. In doing so, it fosters a regime of open, accountable and transparent decision making on concerns of the environment. It fosters the importance of participatory governance – of the value in giving a voice to those who are most affected by environmental policies and public projects. The structural design of the environmental rule of law composes of substantive, procedural and institutional elements. The tools of analysis go beyond legal concepts. The result of the framework is more than just the sum total of its parts. Together, the elements which it embodies aspire to safeguard the bounties of nature against existential threats. For it is founded on the universal

recognition that the future of human existence depends on how we conserve, protect and regenerate the environment today.

90. In its decision in *Hanuman Laxman Aroskar vs Union of India*, [2019] 15 SCC 401 the Court, recognized the importance of protecting the environmental rule of law. The court observed:-

*"142. Fundamental to the outcome of this case is a quest for environmental governance within a rule of law paradigm. Environmental governance is founded on the need to promote environmental sustainability as a crucial enabling factor which ensures the health of our ecosystem. "*

*143. Since the Stockholm Conference, there has been a dramatic expansion in environmental laws and institutions across the globe. In many instances, these laws and institutions have helped to slow down or reverse environmental degradation. However, this progress is also accompanied, by a growing understanding that there is a considerable implementation gap between the environmental laws and their requirements of implementation and enforcement both in developed and developing countries alike...*

*156. The rule of law requires a regime which has effective, accountable and transparent institutions. Responsive, inclusive, participatory and representative decision making are key ingredients to the rule of law. Public access to information is, in similar terms, fundamental to the preservation of the rule of law. In domestic context, environmental governance that is founded on the rule of law emerges from the values of our Constitution. The health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution. Proper structures for environmental decision making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution."*

91. In its first global report on environmental rule of law in January 2019, the United Nations Environment Programme ("UNEP") has presciently stated:-

*"If human society is to stay within the bounds of critical ecological thresholds, it is imperative that environmental laws are widely understood, respected, and enforced and the benefits of environmental protection are enjoyed by people and the planet. Environmental rule of law offers a framework for addressing the gap between environmental laws on the books and in practice and is key to achieving the Sustainable Development Goals.*

*Successful implementation of environmental law depends on the ability to quickly and efficiently resolve environmental disputes and punish environmental violations. Providing environmental adjudicators and enforcers with the tools that allow them to respond to environmental matters flexibly, transparently, and meaningfully is a critical building block of environmental rule of law"*

92. The need to adjudicate disputes over environmental harm within a rule of law framework is rooted in a principled commitment to ensure fidelity to the legal framework regulating environmental protection in a manner that transcends a case-by-case adjudication. Before this mode of analysis gained acceptance, we faced a situation in which, despite the existence of environmental legislation on the statute books, there was an absence of a set of overarching judicially recognized principles that could inform environmental adjudication in a manner that was stable, certain and predictable. In an article in the Asia-Pacific Journal of Environmental Law (2014), Bruce Pardy describes this conundrum in the following terms:-

*"Environmental regulations and standards typically identify specific limits or prohibitions on detrimental activities or substances. They are created to reflect the principles and prohibitions contained in the statute under which they are promulgated. However, where the contents of the statute are themselves indeterminate, there is no concrete rule or set of criteria to apply to formulate the standards. Their development can therefore be highly political and potentially arbitrary. Instead of serving to protect citizens' environmental welfare, an indeterminate environmental law facilitates a utilitarian*

*calculus that allows diffuse interests to be placed aside when they are judged to be less valuable than competing considerations.”*

93. However, even while using the framework of an environmental rule of law, the difficulty we face is this when adjudicating bodies are called on to adjudicate on environmental infractions, the precise harm that has taken place is often not susceptible to concrete quantification. While the framework provides valuable guidance in relation to the principles to be kept in mind while adjudicating upon environmental disputes, it does not provide clear pathways to determine the harm caused in multifarious factual situations that fall for judicial consideration. The determination of such harm requires access to scientific data which is often times difficult to come by in individual situations.
94. In an article in the Georgetown Environmental Law Review (2020), Arnold Kreilhuber and Angela Kariuki explain the manner in which the environmental rule of law seeks to resolve this imbroglio:-

*"One of the main distinctions between environmental rule of law and other areas of law is the need to make decisions to protect human health and the environment in the face of uncertainty and data gaps. Instead of being paralyzed into inaction, careful documentation of the state of knowledge and uncertainties allows the regulated community, stakeholders, and other institutions to more fully understand why certain decisions were made."*

*The point, therefore, is simply this the environmental rule of law calls on us, as judges, to marshal the knowledge emerging from the record, limited though it may sometimes be, to respond in a stern and decisive fashion to violations of environmental law.*

*We cannot be stupefied into inaction by not having access to complete details about the manner in which an environmental law violation has occurred or its full implications. Instead, the framework, acknowledging the imperfect world that we inhabit, provides a roadmap to deal with environmental law."*

95. In a recent decision of the Court in *Bengaluru Development Authority vs. Sudhakar Hegde 2020 SCC online SC 328*, the Hon'ble Supreme Court held:-

*"107. The adversarial system is, by its nature, rights based. In the quest for justice, it is not uncommon to postulate a winning side and a losing side. In matters of the environment and development however, there is no trade-off between the two. The protection of the environment is inherent component of development and growth... "*

*108. Professor Corker draws attention to the idea that the environmental protection goes beyond lawsuits. Where the state and statutory bodies fail in their duty to comply with the regulatory framework for the protection of the environment, the courts, acting on actions brought by public spirited individuals are called to invalidate such actions... "*

*109. The protection of the environment is premised not only on the active role of courts, but also on robust institutional frameworks within which every stakeholder complies with its duty to ensure sustainable development. A framework of environmental governance committed to the rule of law requires a regime which has effective, accountable and transparent institutions. Equally important is responsive, inclusive, participatory and representative decision making. Environmental governance is founded on the rule of law and emerges from the values of our Constitution. Where the health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution, proper structures for environmental decision making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution. Sustainable development is premised not merely on the redressal of the failure of democratic institutions in the protection of the environment, but ensuring that such failures do not take place."*

96. It cannot be disputed that no development is possible without some adverse effect on the ecology and environment, and the projects of public utility cannot be abandoned and it is necessary to adjust the interest of the people as well as the necessity to maintain the environment. A balance

has to be struck between the two interests. Where the commercial venture or enterprise would bring in results which are far from for more useful for the people at large, difficulty of a small number of people has to be addressed by taking up mitigation measures in the larger interest of the nation. The comparative hardships have to be balanced and convenience and benefits to a larger section of the people has to get priority over comparatively lesser hardship.

97. This indicates that while applying the concept of sustainable development one has to keep in mind the principal of proportionality based on the concept of balance. It is an exercise in which we have to balance a priority of development on one hand and environmental protection on the other hand.
98. All these contentions which have been raised by the learned Counsel for the Appellant have been raised previously which have been referred to the MoEF&CC and the MoEF&CC referred the matter to the EAC and the Competent Authority and Expert Body. The MoEF&CC, State PCB and Expert Body considered and disposed of the objections raised by the Appellant and the decision has been taken in accordance with law quoted above.
99. India's energy sector faces significant challenges, primarily high dependence on imported fossil fuels (over 85% of oil, 50% gas), coal supply bottlenecks affecting power generation, and major financial distress within state distribution companies (Discoms). Grid stability issues with renewable integration, high transmission losses (-15%), and rising demand also hinder reliable, clean energy access. India imports over 88% of its crude oil and significant gas, exposing the economy to global price volatility and supply chain disruptions. Financial Crisis of Discoms: State-

owned distribution companies face severe financial instability due to low tariffs, high power purchase costs, and inefficiency, preventing them from buying enough power to meet demand. Coal Supply Shortages: Despite rising solar/wind, coal remains the primary power source. However, coal production and transportation cannot keep pace with demand, causing frequent power plant shortages. Infrastructure & Grid Management. Inadequate grid infrastructure makes it difficult to manage intermittent renewable energy (solar/wind). Transmission bottlenecks lead to wasted power, particularly in renewable-rich states like Rajasthan. Low Transmission and Distribution (T&D) Efficiency: High technical and commercial losses mean roughly 15% of electricity produced does not reach customers.

100. For over three decades, every major global energy shock - from the 2003 Gulf War to the 2008 oil price spike and now renewed crisis in the Middle East which disrupting around 20% of global energy supply has exposed the same structural weakness in India's economy, a deep and persistent dependence on imported fossil fuels and resulting vulnerability from price volatility. Each time global supply tightens, the consequences ripple through India's economy, widening trade deficits, raising inflation, and forcing fiscal interventions. But beyond these macroeconomic pressures, a more fundamental issue remains unresolved: India's energy system is still structurally tied to fuels that it does not control. This dependence is not episodic; it's systemic. Fossil fuels constitute around 75% of India's primary energy need and import plays a significant part of it. India imports roughly 85-90% of its crude oil, around 45-50% of its fossil gas, and a significant share of its coal needs, particularly higher-grade fuels. The recent Increased focus on coal amid oil and gas shortages should be

understood in this context. It is not simply a short-term operational decision. It is a reflection of a deeper strategic dilemma, one in which fossil fuels continue to dominate, even as their risks become more visible.

101. The current increase in coal utilisation reflects its role as a "shock absorber" in India's energy mix. When gas becomes scarce or expensive coal plants are ramped up to maintain electricity supply. This has been evident in recent policy responses, where coal plants are being pushed to operate at higher capacity to offset fuel shortages elsewhere. First, coal does not eliminate import dependence, India still imports substantial volumes, over 240 million tonnes annually in recent years on the top of one billion tonnes of domestic production, particularly for coking coal and higher-grade thermal coal, exposing it to international price volatility and supply risks. Second, continued coal expansion locks in long-lived infrastructure creating stranded asset risks and reducing system flexibility at a time when cleaner, more cost-competitive alternatives are scaling rapidly. Third, this lock-in reinforces inefficiencies across the power system. Including underutilised assets and rising fixed costs, which can translate into higher tariffs and fiscal stress.

102. Amid the Middle East crisis, India is pushing renewable energy by accelerating wind and battery clearances because gas supply has become volatile, but at the same time planning to use emergency clause to run imported-coal plant at full capacity. Fossil gas has long been positioned as a "transition fuel, but the geo-political disruptions again underscore its volatility. For a fossil fuel Import-dependent country like India, this makes gas a risky foundation for long-term energy planning. Expanding gas infrastructure, pipelines, LNG terminals, and distribution networks, risks locking India into another fossil fuel-dependent pathway. These are

capital-intensive, long-lived assets that create economic and political incentives to sustain fossil fuel use, even as cleaner alternatives become more competitive. Meanwhile, Indian households and businesses, which are already suffering from energy shortage, are going to face yet another summer of climate-fueled heatwaves, one reason for the huge increase in energy demand seen over recent summers. To align with a 1.5 °C pathway wind and solar generation need to grow about five to six-fold by 2030, reaching roughly 900-1 200 TWh and around 600 GW of installed capacity from the generation of around 220 TWh in 2024, while accelerating coal phase-down, expanding grid Integration.

103. A persistent narrative is that India continues to rely on coal because renewable energy cannot yet meet demand reliably. While challenges around storage, and grid integration are real, this framing misidentifies the core issue. Renewable energy is not the source of India's vulnerability, fossil fuel dependence is. India's renewable energy potential far exceeds its current and projected electricity demand. Estimates suggest over 3 TW of solar and 1 TW of wind energy potential, compared to current peak demand of around 250 GW. At the same time, the economics have shifted decisively. Utility-scale solar tariffs in India have fallen to around INR 2-3/kWh (USD 0.3/kWh), one of the lowest globally, making new renewable generation cheaper than new coal and gas plants in many cases. While challenges related to storage and grid integration remain, India is already managing significant variable renewable energy with around 30% of total installed capacity and also scaling both transmission infrastructure and battery storage, demonstrating that these are manageable system planning issues rather than structural barriers.

104. In view of the above discussion and the report, the MoEF&CC and the EAC duly considered and disposed of the application/objections and granted the Environmental Clearance. The project is for the energy sector for which the country and the world is facing crisis due to Russia-Ukraine and Mid-East War and facing the energy crisis. The State have to dependent on energy and, thus, the project is of national importance. There is no illegality or irregularity in conducting the procedure or order impugned.
105. The **Appeal No.28/2024(CZ)** is devoid of any merits and deserves to be dismissed and accordingly **dismissed**.
106. Pending I.As., if any, also stand **disposed of**.

**Sheo Kumar Singh, JM**

**Sudhir Kumar Chaturvedi, EM**

17<sup>th</sup> April, 2026,  
Appeal No.28/2024(CZ)  
(I.A. No.126/2024 & I.A. No.127/2024)  
AK