

Next date of hearing: 02.11.2020

**BEFORE THE NATIONAL GREEN TRIBUNAL,
(SOUTHERN ZONE), SITTING AT CHENNAI**

Appeal No. 14 of 2020

IN THE MATTER OF:

Yelahanka Puttenahalli Lake and
Bird Conservation Trust (Regd.)

....APPELLANT

VERSUS

Ministry of Environment, Forests and
Climate Change, Union of India & Ors.

...RESPONDENTS

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APPELLANT

Through
Yelahanka Puddenahalli
Lake & Bird Conservation Trust (Regd)

Place: Chennai
Date: 29.10.2020


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**BEFORE THE NATIONAL GREEN TRIBUNAL,
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**REJOINDER-AFFIDAVIT ON BEHALF OF THE APPELLANT
TO THE COUNTER STATEMENT DATED 19.10.2020 FILED
BY THE RESPONDENT NO. 4 TO THE APPEAL**

I, Dr. K. S. Sangunni, Chairman, Yelahanka Puttenahalli Lake and Bird Conservation Trust (Regd.), Reg No. BNG(U)YLNK/BKIV/13/2013-2014 #9, 1st Mani, Vinayaka Layout, Puttenahalli, Yelahanka, Bengaluru- 560064, KARNATAKA, do hereby solemnly affirm and state on oath as follows:-

1. That I am the Chairman of Yelahanka Puttenahalli Lake and Bird Conservation Trust (Regd.), the Appellant herein and as such I am aware of the facts and circumstances of the case and hence competent to swear to this rejoinder-affidavit.
2. That the Appellant has filed the above mentioned appeal before this Hon'ble Tribunal under section 18 of the National Green



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Tribunal Act, 2010 (hereinafter referred as “the Act”), herein the situation has arisen giving rise to the substantial questions relating to the environment, as referred to in section 14 of the Act, and the same requires adjudication by this Hon’ble Tribunal. Further, there is damaged caused to the environment by the activities of the Respondents and the same requires the restitution of the environment, as contemplated under section 15 of the Act. And further, the present appeal seeks the cancellation of the prior Environment Clearance dated 01.09.2015 granted to the Respondent No. 4 herein dehors the applicable Notifications and statutory provisions, as contemplated under section 16 of the Act. For the sake of brevity and conciseness the averments of the said appeal are not reproduced herein and the same may be treated as part and parcel of the present rejoinder-affidavit.

3. That the Respondent No. 4 (M/s. Karnataka Power Corporation Ltd.) has filed its Counter-Statement dated 19.10.2020 to the above mentioned appeal. It is submitted that the averments and allegations mentioned in the said counter-statement of the Respondent No. 4 are denied in toto unless it is specifically




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admitted or reiterated hereunder and no part of the same may be deemed to have been admitted otherwise.

In re: Preliminary objections: The Appeal is collusive and mal-fide:

4. At the outset it is humbly submitted that the Respondent No. 4, in order to cover up its mis-doings and further to mislead this Hon'ble Tribunal, has falsely stated that the present appeal is collusive and malafide. That the Respondent No. 4 has not produced an iota of evidence to show that the present appeal is not in the interest of protection of the environment and that the Respondent No. 4 is guilty of making baseless allegations and surmises in paragraphs 5 to 12 of the Counter-Statement.
5. That the Respondent No. 4 is adversely commenting on the remedies availed by the Appellant and the said remedies are provided by the Constitution of India under Articles 136 and 226. It may be noted that in all these proceedings viz., before the Hon'ble High Court of Karnataka and as well as before the Hon'ble Supreme Court of India, the Respondent No. 4 was a party-Respondent and due to its laxity could not file any reply before the Hon'ble High court of Karnataka in W.P. No.



25189/2018. Further, that the Respondent No. 4 herein, was a party-Respondent before the Hon'ble Supreme Court of India in SLP(C) No. 10555/2019 [C.A. No. 2552/2020]. Therein, the Respondent No. 4 filed its counter-affidavit opposing the grant of special leave to appeal. It is submitted that the Hon'ble Supreme Court of India, rejected the averments of the Respondent No. 4 and thereby, by its Order dated 10.06.2020 granted leave to the Appellant. Thus, the Hon'ble Supreme Court by its Order dated 10.06.2020 categorically set aside the observation of the High Court. The relevant portion of the Order dated 10.06.2020 is as follows:-

“Having heard learned counsel for the parties, we are of the view that it is just and proper for the parties to approach the National Green Tribunal for appropriate relief. The observation of the High Court on merits of the case is hereby set aside.” (emphasis supplied)

6. It may further be noted that the Hon'ble Supreme Court by its Order dated 10.06.2020 passed in SLP(C) No. 10555/2019 has granted leave to appeal to the Appellant. Thus, in accordance with the law laid down by the Hon'ble Supreme Court in




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Kunhayammed and Ors. v/s. State of Kerala and Anr. [(2000) 6 SCC 359] and further reiterated in *Khoday Distilleries Ltd. and Ors. vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd.* [(2019) 4 SC C376], the Order dated 08.03.2019 passed by the Hon'ble High Court of Karnataka in W.P. No. 28189/2018 is merged with the order dated 10.06.2020 passed by the Hon'ble Supreme Court of India in C.A. No. 2552/2020. Therefore, the Respondent No. 4 is erroneously placing reliance on the observations of the Hon'ble High Court in respect of grant of EC. The relevant para of the present Counter-Statement filed by the Respondent No. 4 is as follows:-

“8. However, at the urging of the Appellant, the Hon'ble High Court dismissed the arguments that there was a jurisdictional error in the grant of the EC.”

Hence, in view of the above law laid down by the Hon'ble Supreme Court, the said observation of the Hon'ble High Court is of no avail to the Respondent No. 4 and moreover, the said observation has been categorically set aside by the Hon'ble Supreme Court.

7. It is further submitted that the Respondent No. 4 is making vexatious and baseless allegations against the Appellant, in



respect of the pending O.A. No. 57/2017 before this Hon'ble Tribunal. It is submitted that the Applicant in O.A. No. 57/2017 had filed an intervention/impleading application before the Hon'ble Supreme Court in SLP(C) No. 10555/2019. The said intervention/impleading application was listed before the Hon'ble Supreme Court [Hon'ble Chamber Judge] on 13.11.2019 and the Respondent No. 4, specifically sought permission to file reply to the application for impleadment. The Respondent No. 4 filed its detailed reply on 10.12.2019 and thereby opposed the impleadment of the Applicant in O.A. No. 57/2017. The Hon'ble Supreme Court by its order dated 13.01.2020 was pleased to reject the objections of the Respondent No. 4 and thereby allowed the Applicant in O.A. No. 57/2017 to intervene. In view of the above, it is submitted that it is highly improbable on part of the Respondent No. 4 herein to make weird allegations against the Appellant herein stating that there is "concerted strategy" between the Appellant herein and the Applicant in O.A. No. 57/2017.

(A true copy of the Order dated 13.11.2019 passed by the Hon'ble Supreme Court of India in SLP(C) No. 10555/2019 is herein annexed as ANNEXURE A-30) (pages 68



(A true copy of the Order dated 13.01.2020 passed by the Hon'ble Supreme Court of India in SLP(C) No. 10555/2019 is herein annexed as ANNEXURE A-31) (pages 69

8. It is submitted that the Respondent No. 4 herein, after the passing of the Order dated 10.06.2020 by the Hon'ble Supreme Court, had also filed a miscellaneous application in M.A. No. 1527/2020, seeking clarification. In the said miscellaneous application, the Respondent No. 4 made substantially the same averments as made in para 5 to 12 of the present Counter-Statement. The Hon'ble Supreme Court after hearing both the parties, by its Order dated 09.09.2020, was pleased to categorically state that the Order dated 10.06.2020 does not require any clarification. In spite of the same, the Respondent No. 4, being a responsible Authority of the Government of Karnataka, is guilty of making contemptuous and baseless allegation, as follows:-

“10. By gross misrepresentation of facts and by suppression of documents, the Appellant managed to persuade the Hon'ble Supreme Court to issue notice to the Respondents.....”




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Herein, it is submitted that the Respondent No. 4 is prima facie guilty of imputing colour to the Orders passed by the Hon'ble Supreme Court and thereby has deliberately committed the contempt of the Hon'ble Supreme Court. Therefore, it is submitted that the Officers of the Respondent No. 4 who are responsible for making such contemptuous statement against the Orders passed by the Hon'ble Supreme Court of India, needs to be sternly dealt with in accordance with law.

In re: Appeal filed in violation of the order of the Hon'ble Supreme Court:

9. That the Respondent No. 4, in paragraphs 13 to 17 of the counter-statement filed by itself, has erroneously stated that the present appeal filed by the Appellant herein, is in violation of the direction passed by the Hon'ble Supreme Court. It is submitted that the Respondent No. 4, has failed to highlight the said directions, if any, passed by the Hon'ble Supreme Court. It is submitted that the Hon'ble Supreme Court has passed two final Orders on 10.06.2020 and 09.09.2020. In the said orders, there is no direction passed by the Hon'ble Supreme court, prescribing the parameters of the appeal to be filed and decided by this Hon'ble Tribunal. Thus, it is submitted that the Respondent No.



4 has made a false statement to the effect that the present appeal filed by the Appellant is in violation of the direction of the Hon'ble Supreme Court.

10. It is humbly submitted that the Environment Clearance dated 01.09.2015 was challenged by the Appellant before the Hon'ble High Court and as well as before the Hon'ble Supreme Court. That the Appellant had filed W.P. No. 25189/2018 before the High Court of Karnataka and in the memorandum of writ petition, the EC dated 01.09.2015 is categorically challenged. The relevant paragraph 19 of memorandum of writ petition is as follows:-

"19. However, since the project was illegally cleared by the SEIAA who did not have jurisdiction to even deal with the proposal under the EIA Notification, 2006 these issues have not been disclosed or noticed, much less studied or appraised. It is therefore, submitted that the clearance dated 01.09.2015 is void ab initio and is a nullity, with no validity in law. The project proponent has no right to continue construction under the aegis of this void clearance and the continuance of activity at the site is illegal."

(see page 229 @ 236 of the Appeal paper-book)




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11. That further, the prayers made in the W.P. No. 25189/2018 before the High Court are as follows:-

“1. Direct the 1st Respondent to consider the representation submitted by the Petitioner and initiate necessary action against the 4th Respondent towards the cancellation of the illegal and void environment clearance dated 01.09.2015 issued by the 2nd Respondent herein (placed herewith as Annexure-J)

2. Direct the 3rd Respondent to ensure that all steps are taken and necessary financial allocations are made towards preservation of the Puttenahlli Bird Reserve.

3. pass any other orders in the interest of justice and equity.”

(see page 229 @ 245 of the Appeal paper-book)

12. The Hon’ble High Court in its order dated 08.03.2019 had ruled as under:-

“5. On hearing the learned counsels, we do not find any merit in this petition. Primarily as could be seen from the representation made by the petitioner, the same is a relief sought for to set aside the Environmental Clearance granted to respondent No. 4. The said order is appealable to the National Greens Tribunal. Therefore, it is not appropriate to entertain this petition. Even otherwise, on considering the material on record, we do not find that there is any violation of law in granting the environmental clearance. The environmental clearance is granted in a



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manner known to law, after following the procedure involved therein.”

(see page 264 @ 268 of Appeal paper-book)

13. Further, the Appellant herein filed a special leave petition before the Hon’ble Supreme Court of India in SLP(C) No. 10555/2019. The Special leave petition, *inter alia*, questioned the grant of EC dated 01.09.2015. The relevant Ground ‘I’ of the Special Leave Petition is as follows:-

“I. *It is submitted that the M/s. Karnataka Power Corporation Ltd. Instead of approaching the Ministry of Environment, Forest and Climate Change (MoEFCC) to seek environmental clearance under the EIA Notification,2006; has erroneously approached the Karnataka State Environmental Impact Assessment Authority (hereinafter referred to as the SEIAA) seeking for environmental clearance in respect of the said “Gas based Combined Cycle Power Plant”. The SEIAA, without taking into consideration that it did not have the jurisdiction to consider the said application, and without any application of mind, issued environmental clearance dated 01.09.2015. This calls for the interference of this Hon’ble Court.”*

(see page 269 @ 286 of Appeal paper-book)



14. The Hon'ble Supreme Court by its Order dated 08.05.2019 issued notice in the special leave petition (see page 302 of Appeal paper-book). The Karnataka Power Corporation Ltd., (KPCL), filed its counter-affidavit opposing the special leave petition. Therein, *inter alia*, the KPCL, took a stand that there is alternate remedy available to the Appellant and thereby acknowledging that the EC can be questioned before the Hon'ble NGT. The relevant paragraph of the counter-affidavit filed by the Respondent No. 4, is as follows:-

"2. S. 14, 15 and 16(h) of the National Green Tribunal Act, 2010 provides that the Tribunal has the jurisdiction inter alia, to adjudicate matters relating to disputes regarding environmental clearances granted and matters relating to protection of the environment. Therefore, the Petitioner is required to approach the Tribunal for the adjudication of any claims it has regarding the same."

(see page 303 @ 306 of Appeal paper-book)

15. The Hon'ble Supreme Court in SLP(C) No. 10555/2019 granted leave in the matter and thereby by its Order dated 10.06.2020 disposed of the matter as follows:-

"Leave granted."



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The petitioners filed a writ petition No. 25189 of 2018 before the High Court of Karnataka at Bangalore challenging the Order granting environmental clearance dated 1.9.2015 by State Level Environmental Impact Assessment Authority in favour of respondent No.4. The High Court has rightly held that the said order is appealable to the National Green Tribunal. While holding so, the Division Bench has observed that there is no violation of any law in granting environmental clearance, without considering the rival contentions of the parties.

Having heard learned counsel for the parties, we are of the view that it is just and proper for the parties to approach the National Green Tribunal for appropriate relief. The observation of the High Court on merits of the case is hereby set aside.

If the proceedings are initiated before the National Green Tribunal within a period of four weeks from today, the National Green Tribunal is requested to dispose of the same on merits.

The Appeal is disposed of accordingly.

Pending application(s), if any, shall stand(s) disposed of.”
(emphasis supplied)

(see page 388 of Appeal paper-book)

16. That the Respondent No. 4 had sought the clarification of the above order dated 10.06.2020, by filing a miscellaneous application in M.A. No. 1527/2020 wherein the Respondent No.




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4 raised a contention as mentioned below and thereby sought a clarification to that effect. The said contention is as follows:-

“5. The necessity for this application for clarification arises due to the material suppression of facts by the Petitioner from this Court and from the Respondent No.4, which has resulted in the liberty being granted in terms of the order dated 10.06.2020. First aspect for clarification is that the order of this Hon’ble Court records that the Petitioner was challenging the EC before this Hon’ble Court and the Hon’ble High Court. The Petitioner has never questioned the EC at any point in time.”

(M.A. No. 1527/2020 is filed along with the memo by the KPCL)

17. The Hon’ble Supreme Court in M.A. No. 1527/2020 by its Order dated 09.09.2020 was pleased to pass the following order:-

“Heard learned counsel for the parties.

In our view, Order passed by this Court on 10.06.2020 requires no clarification. Application for Clarification stands disposed of accordingly.

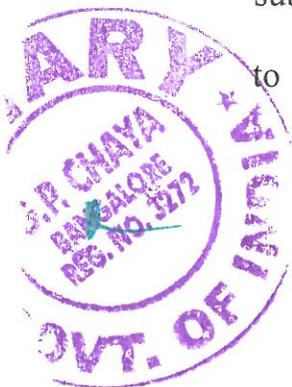
However, all the contentions of the parties are left open to be considered by the National Green Tribunal.”

18. Therefore, from the above it is clear that the averments of the Respondent No. 4 in its counter-statement, where it raises a contention that the Appellant had never challenged the grant of Environmental Clearance dated 01.09.2015 before the Hon’ble



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High Court and before the Hon'ble Supreme Court, deserves to be rejected in toto. It is further submitted that the Respondent No. 4, if is of the opinion that what is recorded by the Hon'ble Supreme Court in its Order dated 10.06.2020, is not correct or there is an error, then the Respondent No. 4 ought to have filed a review petition before the Hon'ble Supreme Court. It is submitted that the Respondent No. 4, till date has not filed any review petition, so as to seek the rectification of error, if any and more over the same ought to have been filed within 30 days of the passing of the order. Thus, the said Orders passed by the Hon'ble Supreme Court has attained finality and the same are binding. Whereas, the Respondent No. 4, without application of mind, is trying to overreach the Orders passed by the Hon'ble Supreme Court and thereby is making false and frivolous statements before this Hon'ble Tribunal and claiming that the Appellant has not challenged the grant of Environmental Clearance dated 01.09.2015 before the Hon'ble High Court and Hon'ble Supreme Court and therefore cannot now challenge the same before this Hon'ble Tribunal. In view of the above, it is submitted that this Hon'ble Tribunal has power and jurisdiction to take into consideration the provisions of EIA Notification,




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2006 and thereby to look into the legality of Environmental Clearance dated 01.09.2015 granted to the Respondent No. 4. Thus, it is submitted that the EC dated 01.09.2015 granted by the Respondent No. 2 (SEIAA) in favour of Respondent No. 4 (M/s. KPCL) is without jurisdiction and granted in violation of the provisions of EIA Notification, 2006. Thus, it is submitted that the said EC dated 01.09.2015 it is void ab inito and thereby deserves to be quashed in the interest of justice.

In re: Reliefs barred by limitation:-

19. For the sake of convenience, the Order dated 10.06.2020 passed by the Hon'ble Supreme Court of India in SLP(C) No. 10555/2019 [C.A. No. 2552/2020] is reproduced as follows:-

“Leave granted.

The petitioners filed a writ petition No. 25189 of 2018 before the High Court of Karnataka at Bangalore challenging the Order granting environmental clearance dated 1.9.2015 by State Level Environmental Impact Assessment Authority in favour of respondent No.4. The High Court has rightly held that the said order is appealable to the National Green Tribunal. While holding so, the Division Bench has observed that there is no violation of any law in granting environmental clearance, without considering the rival contentions of the parties.

Having heard learned counsel for the parties, we are of the view that it is just and proper for the parties to approach the National Green Tribunal for appropriate



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relief. The observation of the High Court on merits of the case is hereby set aside.

If the proceedings are initiated before the National Green Tribunal within a period of four weeks from today, the National Green Tribunal is requested to dispose of the same on merits.

The Appeal is disposed of accordingly. ”

20. Further, the Hon’ble Supreme Court in M.A. No. 1527/2020 by its Order dated 09.09.2020 was pleased to pass the following order:-

“Heard learned counsel for the parties.

In our view, Order passed by this Court on 10.06.2020 requires no clarification. Application for Clarification stands disposed of accordingly.

However, all the contentions of the parties are left open to be considered by the National Green Tribunal.”

21. Thus, from the conjoint reading of both the Orders passed by the Hon’ble Supreme Court, it is humbly submitted as follows:-

- a. The Hon’ble Supreme Court by its Order dated 09.09.2020 has categorically stated that no clarification of the order dated 10.06.2020 is required. Hence, the direction, the Hon’ble Supreme Court gave in the Order dated 10.06.2020 survives *i.e*, if the Appellant file the matter



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within 4 weeks, then the NGT shall dispose of the matter on merits.

- b. That the latter part of the Order dated 09.09.2020 pertains to the contentions raised by the Respondent/KPCL, regarding the issue of grant of EC dated 01.09.2015 not being raised by the Appellant before the High Court and the Supreme Court. Hence, the issue of grant of EC cannot be gone into by the NGT. In this regard the Supreme Court was pleased to state that the contentions of the parties are left open to be considered by the NGT.

Thus, in view of the above, it is submitted that the delay, if any is deemed to have been condoned and this Hon'ble Tribunal and thereby proceed to hear the matter on merits.

In re: Misrepresentation by the Appellant:-

22. It is submitted that the Respondent No. 4 (KPCL) is headed by Chief Minister of Karnataka, who officiate as its Chairman and hence, it is obvious that the KPCL had the prior knowledge about declaring the Puttenahalli Lake as 'Bird Conservation Reserve'. It may be noted that any area or lake to become a habitat for flora and fauna would take years. And only when the area/lake become



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an established habitat for flora and fauna, then attempts are made to conserve the same by declaring it as a protected area or sanctuary or national parks and not vice versa. It is submitted that in light of the above, the establishment of the “Gas based Power Plant” within the close vicinity of the Puttenahalli Lake and the same would result in the destruction of the lake eco-system. Further the environmental clearance dated 01.09.2015 is void ab initio and is a nullity since it has been issued without taking into consideration the fact of the ‘protect area’. And moreover, that the Respondent No. 4 has concealed the prior knowledge it had about the intention of the Government of Karnataka in declaring the area/lake as ‘Bird Conservation Reserve’. Further the establishment of the said "Gas based Combined Cycle Power Plant” would cause grave and irreparable damage to the environment and the lives of the people residing in its vicinity.

23. It is submitted that the Respondent No. 4 has made a false and baseless allegation against the Appellant, in paragraph No. 23 to 25 of the Counter-Statement. Herein, it is submitted that the Respondent No. 4 has admitted that it had the knowledge about the decision of the Government of Karnataka regarding the Gazette Notification dated 29.04.2015 declaring the Puttenahalli




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Lake as “Bird Conservation Reserve”, though the decision was to come into effect later. The admission of the Respondent No. 4, to this effect is as follows:-

“52.It is submitted that the Government of Karnataka had decided to declare the Puttenahalli Lake as a Bird Conservation Reserve on 29/04/2015 and the same was notified in the Official Gazette on 10/09/2015.....”

From the above it is submitted that the Respondent No. 4 has deliberately not disclosed and intentionally not brought to the notice of the Respondent No. 2 (SEIAA), that the Power Plant of the Respondent No. 4, falls within 10 kms radius of the protected area “Puttenahalli Bird Conservation Reserve”. Thus, only on this count alone the impugned EC dated 01.09.2015 deserves to be quashed.

24. Herein, a reference may be made to the Terms of Reference dated 19.01.2015 issued by the State Level Expert Appraisal Committee (SEAC), Karnataka vide a Letter dated 19.01.2015 addressed to Chief Engineer, Karnataka Power Corporation Ltd., whereby the former prescribes the Terms of Reference (ToRs) for preparing draft EIA Report for the said Gas based Combined



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Cycle Power Plant. The relevant Terms of Reference are as follows:-

“4. The study should cover an area of 10 kms radius around the proposed plant site.”

xxxxxx

“28. If ecologically sensitive attributes fall within a 10 km radius of the project boundary, proponent shall describe the sensitivity (distance, area and significance) and propose the additional points based on significance for review and acceptance by the State Appraisal Committee (SEAC). A map marking the location of such areas (existing or proposed) duly authenticated by the Chief Wildlife Warden. Ecological sensitive attributes include:

- *National Parks.*
- *Wildlife Sanctuaries Game Reserve.*
- *Tiger Reserve/ Elephant Reserve.*
- *Breeding Grounds.*
- *Habitat for migratory birds.*
- *Area with threatened (rare, vulnerable, endangered) flora/ fauna.*
- *Wetlands.*
- *Zoological Gardens.*
- *Reserved forests/ Protected Forests.*



- *Any other closed/ protected area under the Wildlife (Protection) Act, 1972, any other locally applicable.”*

(emphasis supplied)

(see pages 408 to 413 of Appeal paper-book)

25. From the above it is clear that said Terms of Reference categorically mentioned that “**proposed or existing**” Ecological sensitive attributes, which includes the ‘protected area’ (herein the Bird Conservation Reserve). A further, reference may be made to the Questionnaire dated 23.07.2015 submitted by the Respondent No. 4. Though the Respondent No. 4 had the knowledge about the proposed Puttenahalli lake being declared as Bird Conservation Reserve, but for the reasons best known to itself, has deliberately suppressed the said fact. It is further submitted that the data and information given in the Questionnaire for Environmental Appraisal dated 23.07.2015 by the KPCL, regarding the existence of the National Parks/ Wildlife Sanctuaries is false and misleading. The relevant portion of the Questionnaire for Environmental Appraisal appended to the EIA Report submitted by the Respondent No. 4/ KPCL is as follows:-




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“VI. Whether any of the following exist within 7 km. of the periphery of the project site. If so, please indicate aerial distance and the name of the eco-system as given under the Table.

S. No.		Name	Area falling within 7 km periphery of project (ha.)	Aerial Distance km.
1.	National Park/ Wildlife Sanctuary	None		
xxx	Xxx	xxxx	xxxx	xxx

(see pages 428 to 442 of the Appeal paper-book)

Thus, from the above it is crystal clear that the Respondent No. 4 is guilty of deliberately making false statements and suppression vital information from the SEIAA/SEAC, which goes to the root of the grant of Environmental Clearance dated 01.09.2015. Only on this count alone, the present EC dated 01.09.2015 deserves to be quashed in the interest of justice.




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In re: Challenge to the Environmental Clearance dated 01.09.2015:-

26. It is humbly submitted that the Puttenahalli Lake is located in Bengaluru North Taluk, Yelahanka Hobli. It is a part of Yelamallappa Chetty series of lakes in Bengaluru. This series of lakes flow eastward and joins Dakshina Pinakini River, which ultimately joins the Cauvery River. Yelahanka-Puttenahalli Lake is spread in an area of about 13.77 hectares and is world renowned for being home to over 120 species of birds including migratory and endangered species viz., Northern Pintail (*Anas Acuta*), White Stork (*Ciconia Ciconia*), Northern Shoveler (*AnasClypeata*), Garganey (*Anas Querquedula*) and Glossy Ibis (*Plegadis Falcinellus*) etc. The said lakes are an abode for resident, colonial nesting water Birds, migratory Birds, Butterflies and moths. Its avi-fauna includes endangered and migratory birds from the Northern Himalayas, Siberia, countries from Europe, Africa etc. Birds which are listed under threatened categories of International Union for Conservation of Nature (IUCN) and find it as a favourite abode during breeding season. Around 120 species of Birds spotted therein are Darters, varieties of Ducks such as Northern pintail, Garganey, Painted storks,




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varieties of Herons, Varieties of Egrets, Glossy Ibis etc. are spotted. Some of these birds fall under Schedule I or Schedule IV of the Wildlife (Protection) Act, 1972. The number of birds during season goes beyond 7000. Hence, the lakes have found place as worth mentioning even in several concerned foreign journals. That the “Proposal for Declaration of Puttenahalli Tank Area as Bird Conservation Reserve as per Section 36A of Wildlife Protection act, 1972” submitted by Deputy Conservator of Forests, Bangalore Urban Division, Bangalore highlights the importance of the Puttenahalli Lake. It states that the area is presently under the ownership and possession with the Forest Department of the State Government of Karnataka. The site is maintained as part of nursery by the Karnataka State Forest Department and is a veritable bird paradise, the like of which has not been recorded during nearly 200 year ornithological history of Bangalore.

27. It is submitted that the protected area is located in the vicinity of a project site, would attract the General Conditions of the EIA Notification, 2006. Thus, it is clear that though a project may be categorized as ‘Category B Project’ under the EIA Notification, 2006, if it falls within 10 kms radius from a ‘protected area’ under




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the Wildlife (Protection) Act, 1972, then it has to be appraised at the Central Level by the MoEF as though it is a 'Category A Project'. It is submitted that the Puttenahalli lake is declared as a "Bird Conservation Reserve" under Section 36 -A of the Wildlife (Protection) Act, 1972 by the Government of Karnataka on 29.04.2015 Thus, the present environmental clearance granted is bad in law.

28. It is further submitted that the "Gas based Combined Cycle Power Plant" is a declared polluting activity, since it has been classified as RED category industry (industries with pollution score of over 60) even according to the 2016 reclassification of industries by the CPCB. All power generating units except wind, solar and mini-hydel projects have been classified as RED category industries as seen from serial number 9 of the list of Red Category Industries. It is submitted that the establishment of such a plant would effectively destroy the lake eco-system completely. It is therefore clear that the present project proponent cannot be allowed to establish the "Gas based Combined Cycle Power Plant" in this protected area of Yellahanka-Puttenahalli Lake.
29. It is submitted that the MoEFCC has issued guidelines dated 09.02.2011 which states that the necessity for eco-sensitive




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zones, which are to act as shock absorbers and transitional zones for the protected areas, which otherwise would be forced to grapple with the environmental pollution and stress caused by establishments in its vicinity. The Guidelines provides a list of prohibited, regulated and permissible activity and the subject "Gas based Combined Cycle Power Plant", which is a Red Category Industry and an activity of great environmental footprint covered under the EIA Notification, 2006 is prohibited from being set up in the vicinity of the protected area. Serial No. 4 of annexure 1 to the guidelines prohibits the establishment of polluting industries and Serial No. 23 prohibits the release of effluents into water bodies. Thus, the present project would come within the teeth of the said Guidelines dated 09.02.2011 and hence, is prima facie illegal.

30. It is submitted that the Respondent No. 4 (KPCL) is headed by Chief Minister of Karnataka, who officiate as its Chairman and hence, it is obvious that the KPCL had the prior knowledge about declaring the Puttenahalli Lake as 'Bird Conservation Reserve'. It may be noted that any area or lake to become a habitat for flora and fauna would take years. And only when the area/lake become an established habitat for flora and



fauna, then attempts are made to conserve the same by declaring it as a protected area or sanctuary or national parks and not vice versa. It is submitted that in light of the above, the establishment of the "Gas based Power Plant" within the close vicinity of the Puttenahalli Lake and the same would result in the destruction of the lake eco-system. Further the environmental clearance dated 01.09.2015 is void ab initio and is a nullity since it has been issued without taking into consideration the fact of the 'protect area'. And moreover, that the Respondent No. 4 has concealed the prior knowledge it had about the intention of the Government of Karnataka in declaring the area/lake as 'Bird Conservation Reserve'. Further the establishment of the said "Gas based Combined Cycle Power Plant" would cause grave and irreparable damage to the environment and the lives of the people residing in its vicinity.

31. It is further submitted that the present environment clearance dated 01.09.2015 is issued by the SEIAA without conducting mandatory public hearing. It is submitted that the EIA Notification, 2006 mandates public hearing for all projects covered in the schedule to the Notification, unless specifically exempted. It is submitted that exemption has been envisaged




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under the Notification, 2006 to small scale projects that are located inside industrial estates that have obtained permission under entry 7 (c) of the EIA Notification, 2006. The logic or reasoning behind this is that project so located inside the Industrial Estate would be subjected to public hearing at the time of conducting public hearing for the industrial estate itself and since its location and capacity etc., should be part of the EIA of the industrial estate. However, the SEIAA has failed to take note of this fact in granting environment clearance to the present "Gas based Combined Cycle Power Plant". It is further submitted that the MoEFCC has also issued OM dated 04.04.2016, further clarifying that projects such as "Gas based Combined Cycle Power Plants" would require environmental clearance even if located inside industrial estates on account of their environmental footprint.

32. That the Government of India, Ministry of Environment, Forest and Climate Change issued the Office Memorandum F.No.J-11013/41/2006-IA-II(part) dated 20.08.2014, inter alia, states as follows:-

"This Ministry vide Circular No.L-11011/7/2004-IA.II(I) (Part) dated 27.02.2007 and Office Memorandum (OM)



No. J-11013/41/2006-IA.II(I) dated 02.12.2009 clarified procedure for consideration of developmental projects located within 10 km of 'Protected Areas' (PAs), i.e., National Parks and Wild-life Sanctuaries and also involving wild-life habitat, for grant of environmental clearance (EC) under EIA Notification, 2006. The aforesaid Circular/ OM were inter alia issued pursuant to Supreme Court Order dated 04.12.2006 in W.P.(C) No. 460 of 2004....."

33. It is submitted that the Environmental Impact Assessment Notification, 2006 ("EIA, 2006) issued by the Respondent No. 1, places the "Gas based Combined Cycle Power Plant" under the category 1(d) and further that as its configuration is of 350 (+/- 20) MW and is less than 500 MW, it is classified as a "Category B" Project, and the said project would *prima facie* falls within the jurisdiction of State-level Environment Impact Assessment Authority (SEIAA) for the purpose of granting clearances. However, in respect of the instant "Gas based Combined Cycle Power Plant", is situated at a distance of just around 500 metres from the Puttenahalli Bird Conservation Reserve. Further that the Power Plant is surrounded by the Yelahanka Puttenahalli Lake which is a declared and notified "Bird Conservation Reserve" under the provisions of Section 36-A of the Wildlife (Protection)




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Amendment Act, 2006 and thus, due to this extra-ordinary situation of the region being eco-sensitive, the conditions mentioned in the 'General Conditions' of the EIA Notification, 2006 are attracted and as such, the SEIAA loses its jurisdiction to deal with the proposal and the proposal can only be dealt with and cleared at the Central Level by the Ministry of Environment, Forest and Climate Change (MoEFCC)/ Respondent No. 1 herein and not otherwise.

34. It is clear from a reading of the EIA Notification, 2006 that though a project may be categorized as 'Category B' project under the EIA Notification, 2006, if it falls within 10 kms distance from a protected area, so declared, under the Wildlife (Protection) Act, 1972, then it has to be appraised at the Central Level by the MoEF as though it is a 'Category A' project. Hence, it is apparent that the Environmental Clearance issued by the SEIAA has been issued without jurisdiction and is *non-est* in the eyes of law.

35. It is submitted that the Yelahanka Puttenahalli Lake is a declared "Bird Conservation Reserve" and it is a protected area under the Wildlife (Protection) Act, 1972. The present Gas based Power Plant falls at about 500 meters from the Protected Area/ Bird



Conservation Reserve, and hence, the general conditions to the EIA Notification, 2006 would apply and the project becomes a 'Category A' project, and over which the MoEF alone has the jurisdiction to appraise and issue environmental clearances. This is mandated so as to ensure that special attention is paid to the unique issues that require to be addressed regarding the impact of an activity on a 'protected area' under the Wildlife Protection Act, 1972 so that floral and faunal diversity is not adversely affected and that the habitat of protected species is not destroyed as a result of the proposed activity. For the said reasons, certain projects including the present "Gas based Combined Cycle Power Plant" are prohibited from being set up within 10 kilometres radius of the 'protected area' and only the MoEF is empowered to deal with the issue regarding grant of environment clearance.

36. It is submitted that the said "Gas based Combined Cycle Power Plant" is located within 500 meters from the Yelahanka-Puttenahalli Lake. Further, it is submitted that instead of approaching the Ministry of Environment, Forests and Climate Change (MoEFCC), the Respondent No. 4/ KPCL has approached the Karnataka State Environmental Impact




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Assessment Authority (SEIAA) for the grant of environmental clearance. The SEIAA, without taking into consideration that it does not have the jurisdiction to consider the said application, and without any application of mind, issued environmental clearance on 01.09.2015. Thus, the grant of environmental clearance to the Gas Based Power Plant Project is by the SEIAA is illegal as per the guideline mentioned in EIA Notification, 2006. It is therefore submitted that the clearance dated 01.09.2015 is void *ab initio* and is a nullity, with no validity in law Therefore, the Respondent No. 4 has no right to continue with the construction of the Gas Based Combined Cycle Power Plant.

37. It is submitted that the public grievance was raised by the people around by writing a letter to the MoEF. The MoEF *vide* its Letter dated 30.07.2018 directed the Ministry of Environment, Forest and Climate Change, Regional Office (Southern Zone), Bangalore to submit a factual report on the issues of environmental destruction around Yelahnaka Puttenahalli Lake Birds refuge and pollution caused in the vicinity due to the establishment of a 350 MW Gas based Combined Cycle Power Plant by M/s. Karnataka Power Corporation Ltd. Accordingly, a




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team of Officials visited the spot and submitted a detailed Report on 03.10.2018 to the MOEFCC. The said Report under the heading “2.4 *Consideration of impacts of the project on adjacent residential area and the Yelahanka Lake Wetland*” has categorically stated that the primary storm water drain (*rajkulawas*) are blocked and concretised, which is affecting the water supply to sustain the wetland ecosystem and further that as far as buffer zone is concerned the KPCL is in violation of the directives passed by this Hon’ble Tribunal. It is submitted that heat, air, noise and light pollution from the subject “Gas based Combined Cycle Power Plant” will have a direct bearing on the birds in the ‘protected area’. In fact, changes in air temperature due to stack emissions results in affecting the migratory pattern of birds itself and the deposition of pollutants on the waterbody etc., are issues that require specific consideration. However, the EIA report is silent on these issues and despite being a prohibited activity, the construction of the “Gas based Combined Cycle Power Plant” is going.

38. Further, it is submitted that the Public hearing has not been conducted as required by the EIA Notification 2006. Hence, the Environment Clearance dated 01.09.2015 has been granted in



violation of the EIA Notification 2006. The MoEFCC vide its Office Memorandum dated 04.04.2016 has clarified as follows:-

“6.So a Thermal Power Plant, Cement Plant or Integrated Steel Plant even if located in notified Industrial Regions/ Zones cannot be granted exemption from the public consultation, as that is not the intent of the EIA Notification, 2006.

7. It is accordingly clarified that the category of projects and activities mentioned in the Annexure of this O.M. will require Public consultation in the process of Environment Impact Assessment and environmental clearance irrespective of its location in or outside a notified industrial area/ estate/ region.”

(see page 213 of the Appeal paper-book)

39. That the Respondent No. 4 in para 65 of the counter-statement has stated that the said Office Memorandum dated 04.04.2016 is in the nature of amendment to the EIA Notification of 2006. The relevant portion of para 65 of counter statement are as follows:

“65. It is submitted that the Office Memorandum dated 04/04/2016 was issued the year after the EC was obtained and the EC was published by the Respondent No. 4 in the local newspapers. It is further submitted that a bare reading of the EIA notification along with Office



Memorandum clearly shows that the Office Memorandum issued is in the nature of an amendment to the EIA Notification, 2006 making an exception previously available to certain industries unavailable thereon and is clearly in the nature of an amendment to the same. Therefore, the Office Memorandum would only apply prospectively and not retrospectively to projects which have already received Environmental Clearances pursuant to the exemption under the EIA Notification, 2006.....”

40. Herein, a reference may be made to the said Office Memorandum dated 04.04.2016 which is a clarification and hence the same has retrospective effect. The relevant para 7 is as follows:-

“7. It is accordingly clarified that the category of projects and activities mentioned in the Annexure of this OM will require Public consultation in the process of Environmental Impact Assessment and environment clearance irrespective of its location in or outside a notified industrial area/estate/region.”

It is submitted that the impugned EC, though granted on 01.09.2015, has not attained finality and the same is challenged



before this Hon'ble Tribunal. Therefore, the said OM dated 04.04.2016 would be directly applicable to the present EC dated 01.09.2016 and thus no exemption would be available to the Respondent No. 4, notwithstanding the exemption erroneously granted by the SEIAA/SEAC. Thus, only on this count alone the present impugned EC dated 01.09.2015 deserves to be quashed in the interest of justice.

41. It is submitted that the law in respect of a clarification would have a retrospective effect, is no longer *res integra*. That the Hon'ble Supreme Court in *S.B. Bhattacharjee vs. S.D. Majumdar and Ors.* [(2007) 10 SCC 513] has laid down the law as follows:-

“The clarification being explanatory and/or clarificatory, in our opinion, will have a retrospective effect.”

42. Further, the Hon'ble Supreme Court in *S.S. Grewal v. State of Punjab and Ors.* [1993 Supp(3)SCC 234], has laid down the law as follows:-

“...In this context it may be stated that according to the principles of statutory construction a statute which is explanatory or clarificatory of the earlier enactment is usually held to be retrospective. (See: Craies on Statute Law, 7th Edn., p. 58).....”




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43. Yet again in *Commissioner of Income-Tax, Bombay and Ors. v. Podar Cement Pvt. Ltd. and Ors.* [(1997) 5 SCC 482], the Hon'ble Supreme Court, after referring to a large number of authorities including that of G.P. Singh's Principles of Statutory Interpretation', has held as follows:-

"...An amending Act may be purely clarificatory to clear a meaning of a provision of the principal Act which was already implicit. A clarificatory amendment of this nature will have retrospective effect and, therefore, if the principal Act was existing law when the Constitution came into force, the amending Act also will be part of the existing law."

In re: Environment clearance obtained on false/misleading statements made by the KPCL (Respondent no. 4):

44. It is submitted that the Respondent No. 4 (KPCL) has deliberately concealed and/or submitted a false and misleading information to the State Level Environment Impact Assessment Authority- Karnataka (SEIAA) and thereby illegally obtained the present Environmental Clearance dated 01.09.2015. It is stated that an Application for Environmental Clearances in prescribed




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Form No. 1 is submitted by the Respondent No. 4/ Karnataka Power Corporation Ltd. to the Karnataka State Environment Impact Assessment Authority on 20.12.2014. Therein, the Respondent No. 4 deliberately gives misleading information, they are as follows (only relevant Serial Nos. are mentioned):-

Form-1

I) Basic Information:

<u>S. No.</u>	<u>Item</u>	<u>Details</u>
xx	xx	xx
6.	Category of Project i.e., 'A' or 'B'	"B" (Gas based power plant of less than 500 MW capacity)
7.	Does it attract the general condition? If yes, please specify.	No
8.	Does it attract the specific condition? If yes, please specify	No
xxx	xxxxx	xxxx
21.	Whether the proposal involves approval/ clearance under: a) The Forest(Conservation) Act, 1980. b) The Wildlife (Protection) Act, 1972 c) The CRZ Notification, 1991	No
xxxx	xxxxx	xxxx
23.	Forest Land involved (hectares)	Establishment of the plant and facilities does not involve forest land. However,




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		KPCL, has sought transfer of approx. 6 hectares of forest land, located adjacent to the site, for plantation purpose.
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XXXXXXXX

III) Environmental Sensitivity:

<u>S. No.</u>	<u>Areas</u>	<u>Name/ Identity</u>	<u>Aerial distance (within 15 kms) from proposed project location boundary</u>
1.	xx	xx	xx
2.	Areas which are important or sensitive for ecological reasons: wetlands, watercourses or other water bodies, coastal zones, biosphere, mountains, forests	None	Not Applicable
3.	Areas used by protected, important or sensitive species of flora or fauna for	None	Not Applicable




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	breeding, nesting, foraging, resting over wintering, migration.		
XX	XXX	XXX	XXX

(see page 391 to 407 of Appeal paper-book)

45. The State Level Expert Appraisal Committee (SEAC), Karnataka addresses a Letter dated 19.01.2015 to Chief Engineer, Karnataka Power Corporation Ltd., whereby the former prescribes the Terms of Reference (ToRs) for preparing draft EIA Report for the said Gas based Combined Cycle Power Plant.

The relevant Terms of Reference are as follows:-

“4. The study should cover an area of 10 kms radius around the proposed plant site.”

xxxxxx

“28. If ecologically sensitive attributes fall within a 10 km radius of the project boundary, proponent shall describe the sensitivity (distance, area and significance) and propose the additional points based on significance for review and acceptance by the State Appraisal Committee (SEAC). A map marking the location of such areas (existing or proposed) duly authenticated by the Chief Wildlife Warden. Ecological sensitive attributes include:

- *National Parks.*




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- *Wildlife Sanctuaries Game Reserve.*
- *Tiger Reserve/ Elephant Reserve.*
- *Breeding Grounds.*
- *Habitat for migratory birds.*
- *Area with threatened (rare, vulnerable, endangered) flora/ fauna.*
- *Wetlands.*
- *Zoological Gardens.*
- *Reserved forests/ Protected Forests.*
- *Any other closed/ protected area under the Wildlife (Protection) Act, 1972, any other locally applicable.”*

(see pages 408 to 413 of Appeal paper-book)

46. It is submitted that the Respondent No. 4 prepared the EIA Report in contravention of the Terms of Reference and as well deliberately provided misleading and false information. The Respondent No. 4/ KPCL, in the Environmental Impact Assessment Report, makes the following false/ misleading statement:

“4.8.4. *Flora of the Project Area:*

The field survey to conduct studies for baseline data were made using standard methods for which the sampling sites were selected based on topography and floristic composition within the study area. Plants of ornamental,




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fodder, timber species and medicinal use were listed. Sanctuaries, National park, Biosphere reserve and Migratory routes have not occurred in the study area.”

The above statement can be contradicted to a statement made in another paragraph of the same EIA Report submitted by the Respondent no. 4/ KPCL. The said paragraph is as follows:-

“5.6.3. Impact on Yelahanka and Puttenahalli Lakes:

Puttenahalli Lake is a 10-hectare water body which is to the Western side of the proposed plant and Yelahanka lake is about 120 Hectares and is to the Eastern side of the plant near Yelahanka, 14 km north of Bangalore. These lakes were once outside the Bangalore city and were breeding centers for darters, painted storks, black-crowned night herons, purple herons, pond herons egrets, Asian open bill stork, Eurasian spoonbills, spot-billed pelicans, little grebes, little cormorants, spot-billed ducks, purple moorhens and common sandpipers.”

(see pages 414 to 427 of the Appeal paper-book)

47. It is further submitted that the data and information given in the Questionnaire for Environmental Appraisal dated 23.07.2015 by the KPCL, regarding the existence of the National Parks/ Wildlife Sanctuaries is false and misleading. The relevant portion of the Questionnaire for Environmental Appraisal appended to




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the EIA Report submitted by the Respondent No. 4/ KPCL is as follows:-

“VI. Whether any of the following exist within 7 km. of the periphery of the project site. If so, please indicate aerial distance and the name of the eco-system as given under the Table.

S. No.		Name	Area falling within 7 km periphery of project (ha.)	Aerial Distance km.
I.	National Park/ Wildlife Sanctuary	None		
xxx	Xxx	xxxx	xxxx	xxx

(see pages 428 to 442 of the Appeal paper-book)

In re: Power Plant is a polluting activity and cannot be set-up in eco-sensitive zone:-

48. That the "Gas based Combined Cycle Power Plant" is a declared polluting activity, since it has been classified as RED category industry (industries with pollution score of over 60) even according to the 2016 reclassification of industries by the CPCB.



All power generating units except wind, solar and mini-hydel projects have been classified as RED category industries as seen from serial number 9 of the list of Red Category Industries. It is submitted that the establishment of such a plant would effectively destroy the lake eco-system completely. It is therefore clear that the present project proponent cannot be allowed to establish the "Gas based Combined Cycle Power Plant" in this protected area of Yellahanka-Puttenahalli Lake. (see page 443 pf Appeal paper-book)

49. It is submitted that the MoEFCC has issued guidelines dated 09.02.2011 which states that the necessity for eco-sensitive zones, which are to act as shock absorbers and transitional zones for the protected areas, which otherwise would be forced to grapple with the environmental pollution and stress caused by establishments in its vicinity. The Guidelines provides a list of prohibited, regulated and permissible activity and the subject "Gas based Combined Cycle Power Plant", which is a Red Category Industry and an activity of great environmental footprint covered under the EIA Notification, 2006 is prohibited from being set up in the vicinity of the protected area. Serial No. 4 of Annexure 1 to the guidelines prohibits the establishment of




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polluting industries and Serial No. 23 prohibits the release of effluents into water bodies. Thus, the present project would come within the teeth of the said Guidelines dated 09.02.2011 and hence, is prima facie illegal.

50. It is submitted that the Power Plant is being established between two lakes, viz., the Puttenahalli Lake and Yelahanka Lake, without considering the hydrology of the region. It affects the *rajakaluve* connecting the two lakes and wetlands. It is submitted that the watershed area of the water-bodies in question are being affected prejudicially and this also has not attracted the attention of the statutory authorities. Further, the village map clearly shows the connecting water body between the two lakes as water body and this also has been ignored. In fact, the concrete canal constructed by the project proponent has already destroyed the wetland and has to be restored. It is contrary to the established law in regard to permissible constructions in the vicinity of water bodies and *rajakaluves*.
51. It is submitted that the power plant is being established in an area where no pollution control measures are possible. In fact because of paucity of land, immediately adjacent to lakes and residential areas, green belt cannot be created all around. Discharge of




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treated water into Yelahanka lake will destroy water quality and affect users. It is submitted that relevant conditions are not considered. Secondary pollution control measures not envisaged to handle any emergency situations and risk factors are high. It is submitted that the EIA report has been prepared without any application of mind and the same deserves to be rejected. However, the clearance has been issued based on this inchoate report that fails to even identify and perform the basic features of an EIA study by an authority without jurisdiction to grant the clearance itself.

52. It is submitted that it is clear that the said "Gas based Combined Cycle Power Plant" cannot be permitted in the present location, *i.e* in the immediate vicinity of the protected area under the Wildlife (Protection) Act, 1972 and in its eco-sensitive zone. It is submitted that even for projects that are permitted in the eco-sensitive zones, the law has mandated that permission has to be obtained from the National Board for Wildlife (NBWL), so that issues relating to wildlife and habitat conservation can be properly examined and impact of the activity on the protected area can be assessed. This has been mandated by this Hon'ble Court by its order dated 04.12.2006 passed in W.P.(C) No. 460




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of 2004 that held that all proposals within 10 KM of a 'protected area' be referred to the NBWL. The MoEFCC to prevent assessment of such projects at the state level, has issued OM dated 20.08.2014 clearly stating this requirement. However, in the instant case, the SEIAA has not even referred the proposal to the NBWL and has illegally granted the subject clearance to the project proponent and no permission has been obtained from the National Board for Wildlife as mandated by law, despite which, the project proponent is continuing with construction activity at a brisk pace.

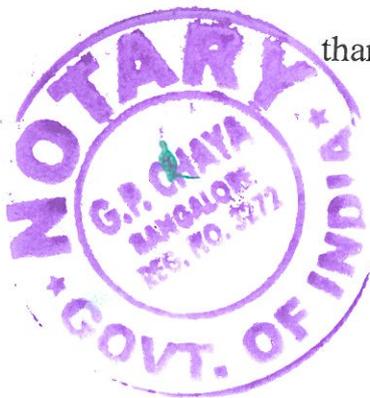
53. It is submitted that heat, air, noise and light pollution from the subject "Gas based Combined Cycle Power Plant" will have a direct bearing on the birds in the 'protected area'. In fact, changes in air temperature due to stack emissions, results in affecting the migratory pattern of birds itself and the deposition of pollutants on the waterbody etc., are issues that require specific consideration. However, the EIA report is silent on these issues and despite being a prohibited activity, the project proponent is proceeding with the establishment of the said "Gas based Combined Cycle Power Plant" with total disregard to the environmental laws.



54. It is further submitted that the present environment clearance dated 01.09.2015 is issued by the SEIAA without conducting mandatory public hearing. It is submitted that the EIA Notification, 2006 mandates public hearing for all projects covered in the schedule to the Notification, unless specifically exempted. It is submitted that exemption has been envisaged under the Notification, 2006 to small scale projects that are located inside industrial estates that have obtained permission under entry 7 (c) of the EIA Notification, 2006. The logic or reasoning behind this is that project so located inside the Industrial Estate would be subjected to public hearing at the time of conducting public hearing for the industrial estate itself and since its location and capacity etc., should be part of the EIA of the industrial estate. However, the SEIAA has failed to take note of this fact in granting environment clearance to the present "Gas based Combined Cycle Power Plant". It is further submitted that the MoEFCC has also issued OM dated 04.04.2016, further clarifying that projects such as "Gas based Combined Cycle Power Plants" would require environmental clearance even if located inside industrial estates on account of their environmental footprint.



55. It is submitted that the present Power Plant emits enormous volumes of noise, which is in violation of permissible limits. The Plant will generate sound levels of around 85 dB(A), whereas the permissible noise levels are less than 55dB(A) for residential areas and 45dB(A) during night times. It is submitted that for last few days, a loud unbearable noise is being heard in the vicinity of the Yelahanka-Puttenahalli Lake. It is believed that it is because of unscheduled trials being conducted at the under-construction power plant of Karnataka Power Corporation Limited (Respondent No. 4). It is further submitted that the residents have complained about the blasting sounds. The sound so created is beyond permissible limits and the same is recorded using Mobile Device. This unabated noise along with continuous vibrations have started to affect the birds/animals as well as people residing in the vicinity. This is a potential health hazard and will adversely affect the health and well-being of Birds and Animals as well as general public including old persons and young children staying in the vicinity. Further, a resident in the vicinity has complained stating that on the morning of 21 May, 2020, she heard a disturbingly loud noise that lasted for more than 15 mins. The children in the park and others around all




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looked around curiously while trying to cover their ears to shut the noise as much as they could. That the said noise has originated from the said power plant. Hence, the Petitioner/Appellant including various resident nearby have made a formal representation/complaint to the concerned Authorities viz., Karnataka State Pollution Control Board, Bengaluru and Commissioner, Bangalore Bruhat Mahanagar Palika. The said Authorities, till date, have not taken any action to curb the activities of the Respondent No. 4 (KPCL) and hence, the clearing and cutting of trees and destruction of forest around the lake including the pollution of the lake water by discharge hot water from the power plant is ever-since continued. This would spell a death knell to the birds and animals and consequently annihilation of the Bird Conservation Reserve; and further would pose serious health hazard to the people living in and around the power plant and thereby upset the ecological balance in the surrounding environment. (see page 444 to 454 of Appeal paper-book)

56. It may further be noted that the Respondent No. 4 has admitted the fact that the power plant generates waste water and effluent of around 190 cubic M. Herein a reference may be made to the




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Letter dated 18.05.2016 written by the Respondent No. 4 to the Karnataka Lake Conservation and Development Authority, which *inter alia*, states as follows:-

"The above a plant is designed to use tertiary water for the process requirement (Boiler water, cooling water etc.) to be supplied Bangalore Water Supply and Sewage Board from their Jakkur treatment plant. The water requirement is 600 M³/hour. After the process, about 190 M³ of wastewater is generated. The analysis of the effluent so generated is as per the Annexure enclosed herewith.

The above effluent he needs to be discharged outside the plant after treatment. In the present case we proposed to discharge the effluent into Yelahanka Lake situated adjacent to a plant boundary through storm water drain passing through the plant. After necessary treatment to meet the standards as per statutory requirement.

Kind consent for the above proposal he is requested after examining our proposal of discharging the waste water (Analysis of waste water). Also kindly advice if any further treatment is necessary for the effluent to be discharged, so that the same can be incorporated at our end."



[Signature]
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(A true copy of the letter dated 18.05.2016 written by the Respondent No. 4 (M/s. KPCL) to the Karnataka Lake Conservation and Development Authority is here in annexed as ANNEXURE A-32) (pages 70)

57. It may further be noted that the Environmental Management and Policy Research Institute (EMPRI) vide its letter dated 06.07.2016 addressed to the CEO, Karnataka Lake Conservation and Development Authority, has categorically stated as follows:-

“With reference to the above cited subject, as per the analysis report enclosed by you shows that the parameters such as Total Dissolved Solids, Total Residual Chlorine, Mercury and water temperature have exceeded the limits and this in-turn has an impact on the water quality and as well as on the aquatic flora and fauna (Sl. No. 8, 22, 34 & 43). We have enclosed the present status of the lake documented during the project “Inventorisation of water bodies in BDA and BBMP Area” underway by EMPRI.”

(A true copy of the Letter dated 06.07.2016 written by the DG, EMPRI to the CEO, KLCDA is herein annexed as ANNEXURE A-33 (pages 71)




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58. It may further be noted that the Karnataka State Pollution Control Board vide its Letter dated 09.08.2016 rejected and restraint the Respondent No. 4 from discharging effluents into the lake. The relevant portion of the said letter is as follows:-

“In this regard, Board has sought clarification from Regional officer and it was opined that the Yelahanka lake is being used for fish harvesting through Department of Fisheries and the discharge of treated effluent will definitely impact negatively on lake water quality, further it is to be stated that the KPCL cannot have control on the treatment efficiency to ensure required treated water quality round the clock through out the year. There is also the possibility of the problems due to operation and maintenance, which may lead to poor quality of treatment and hence, it is opined that discharge of treated effluent to the lake cannot be considered as an option for disposal of treated trade effluent/high TDS effluents.”

(A true copy of the Letter dated 09.08.2016 written by the Karnataka State Pollution Control Board to the Respondent No.




Yelahanka Puttenahalli
Lake & Bird Conservation Trust (Regd)

4 (M/s. KPCL) is herein annexed as ANNEXURE A-34
(pages 72 to 73

59. It is further submitted that the Karnataka Veterinary Animal & Fisheries Science University, Bidar wrote a Letter dated 12.08.2016 addressed to the CEO, Karnataka Lake Conservation and Development Authority, highlighting the following concerns against the activities of the Respondent No. 4. The relevant portion of the said Letter is as follows:-

“With reference to the above, I place the following facts with respect to discharge of treated effluent from Yelahanka Combined Cycle Power Plant into Puttenahalli lake.

- 1. The Puttenahalli lake is a static water body and retains water throughout the year.*
- 2. The lake overflows only during heavy rains, otherwise the water remains stagnant within the lake.*
- 3. As per the Notification of Ministry of Environment, Forest and Climate change (MoEF&C) dated 07/12/2015 and also Appendix-26 of Tata*

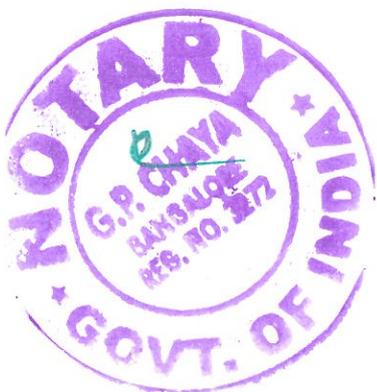



Yelahanka Puttenahalli
Lake & Bird Conservation Trust (Regd)

Consulting Engineers Ltd. (TCE) Environmental standards for power plants, most of the water quality parameters getting discharged into the lake are more than the desired limits.

4. *Since the discharge is throughout the year and the lake will lead to eutrophication.*
5. *Since the effluent discharge temperature is very high (38.58 degree C), most of the sensitive flora and fauna including fish and fish food organism will not survive, hence the destruction of biodiversity of the lake.*
6. *The Karnataka Power Corporation Ltd., may kindly be advised to go in for further treatment of the discharge before letting into the lake in the best interest of the surrounding environment and the neighbourhood.”*

(A true copy of the letter dated 12.08.2016 written by the Karnataka Veterinary Animal & Fisheries Science University, Bidar to the CEO, Karnataka Lake Conservation and




Yelahanka Puttenahalli
Lake & Bird Conservation Trust (Regd)

Development Authority is herein annexed as ANNEXURE A-35

(pages 74 to 75

60. It is further submitted that the Karnataka State Pollution Control Board addressed a Letter dated 10.04.2018 to the Karnataka State Environmental Impact Assessment Authority, whereby has categorically stated as follows:-

“Also, this lake has been declared as “Puttenahalli Lake Birds Conservation Reserve (Protected Area)” under Sec. 36-A of Wildlife Protection Act, 1972 on 29.04.2015. hence, any discharge of treated/untreated effluents into this lake may cause adverse impacts. Hence, an opinion of the Forest Department may also be obtained.

Further, your refence is invited to Hon’ble NGT’s order in the case No. 125/2016 with regard to Bellandur lake, wherein, the Hon’ble NGT has directed the concerned authority not to permit discharge of any effluent into Bellandur lake either treated/untreated at all times. This order is to ensure that there is no pollution of the lake either directly or indirectly, knowingly or unknowingly, machinery FTP failure, human error etc., which could



Yelahanka Puttenahalli
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cause the pollution to the water body. The Karnataka State Pollution Control Board is complying to the directions of Hon'ble NGT & permission not being granted to any industry/ organisation to discharge treated/untreated effluent, which could get discharged otherwise into water body, not only for Bellandur tank, but also for any other water body in the city of Bengaluru and other places."

(A true copy of the Letter dated 10.04.2018 written by the Karnataka State Pollution Control Board to the Karnataka State Environmental Impact Assessment Authority is herein annexed as ANNEXURE A-36 (pages 76 to 78

61. It is further submitted that the Respondent No. 4 (KPCL) has claimed that the Gas (LNG) required for the proposed power plant would be supplied by M/s. GAIL (India) Ltd. from Dabhol, Maharashtra. The Respondent No. 4 has been negotiating with GAIL for supply of natural gas to the proposed Power Plant. GAIL has to put up a pipeline covering a distance of more than 10 kms from the existing pipeline located on the Outer Ring Road near Hebbal, upto the Power Plant site at Yelahanka. The environmental impact of putting up a pipeline from the outer ring



road till the proposed plant site has not been evaluated so far. The Appellant submits that as per clause 6(a) of the Schedule to SO 1533 issued by the MoEF relating to “LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR ENVIRONMENTAL CLEARANCE” would be applicable to such a pipeline project. It is humbly submitted that there are numerous lakes located between the Power Plant and the outer ring road, viz., Hebbal Lake, Singapura Lake, Attur Lake, Puttenahalli Lake etc., and in addition to these lakes, there are numerous natural drains (*rajakaluves*). Besides these, the area is thickly populated and almost 50% of the Bangalore North population resides in the areas located alongside the propose pipeline between outer ring road and the plant site. In addition to this, the proposed pipeline has pass through the Indian Airforce Station at Jalahalli.

62. That this Hon'ble Tribunal and the Hon'ble Supreme Court has consistently held that lakes and such other eco-sensitive zones must be protected for the benefit of current and future generations, and to build water security for all and also in supporting traditional livelihoods and the conservation of biodiversity. That the draining of effluents is prohibited under the Wetland (Conservation and Management) Rules, 2010 enacted




Yelahanka Puttenahalli
Lake & Bird Conservation Trust (Regd)

by the Ministry of Environment and Forests under the Environment Protection Act, 1986. The action of the Respondent is in blatant violation of the principles of Intergenerational Equity which this Hon'ble Court has incorporated into the India legal jurisprudence in the case of *A. P. Pollution Control Board vs. Prof. M. V. Nayudu and Ors.*, [1999 (2) SCC 718]. Further, by virtue of the Public Trust Doctrine and the Principle of Intergenerational Equity, the Respondents are duty bound to conserve and protect the Yellahanka-Puttenahalli Lake and all other lakes. Thus, it is submitted that the mandatory public hearing to be held, in order to give an opportunity to all affected persons to voice their concerns which are to be addressed by the project proponents, has not been complied with in terms of EIA Notification, 2006 and the principles of natural justice.

63. It is submitted that the Government of Karnataka, through the Department of Urban Development, passed an Order bearing No. 39 of 2019, Bengaluru, dated 11.12.2019, whereby has sought to transfer the Puttenahalli Birds Conservation Reserve to Bengaluru Bruhut Mahanagar Palike for maintenance etc. from the Forest Department. and the latter issued a Short Term Tender Notification bearing No. EE-4 (Lakes)/TN-01/2020-21 dated




 Yellahanka Puttenahalli
 Lake & Bird Conservation Trust (Regd)

17.04.2020 for the said purpose. The Appellant has challenged the above Orders/Notifications of the Government of Karnataka before the High Court of Karnataka by filing a writ petition in W.P. No. 7319/2020. The High Court of Karnataka by its Order dated 01.06.2020 has taken cognizance of the matter and has issued notice to the concerned parties. The said matter is still pending consideration before the High Court of Karnataka.

64. That this Hon'ble Tribunal and the Hon'ble Supreme Court has consistently held that lakes and such other eco-sensitive zones must be protected for the benefit of current and future generations, and to build water security for all and also in supporting traditional livelihoods and the conservation of biodiversity. That the draining of effluents is prohibited under the Wetland (Conservation and Management) Rules, 2010 enacted by the Ministry of Environment and Forests under the Environment Protection Act, 1986. The action of the Respondent is in blatant violation of the principles of Intergenerational Equity which this Hon'ble Court has incorporated into the India legal jurisprudence in the case of *A. P. Pollution Control Board vs. Prof. M. V. Nayudu and Ors.*, [1999 (2) SCC 718]. Further, by virtue of the Public Trust Doctrine and the Principle of




Yelahanka Puttenahalli
Lake & Bird Conservation Trust (Regd)

Intergenerational Equity, the Respondents are duty bound to conserve and protect the Yellahanka-Puttenahalli Lake and all other lakes. Thus, it is submitted that the mandatory public hearing to be held, in order to give an opportunity to all affected persons to voice their concerns which are to be addressed by the project proponents, has not been complied with in terms of EIA Notification, 2006 and the principles of natural justice. That despite having repeatedly approached the Respondents in respect of the illegal and void environmental clearance granted to the Respondent No. 4, and the grave harms and dangers of the thermal power project, the Ministry of Environment, Forests and Climate Change has failed to even consider the representation submitted by the Appellant/Trust. This calls for the interference by this Hon'ble Court with the impugned order passed by the SEIAA in the interest of justice, equity and good conscience.

65. That the Hon'ble High Court of Bombay in the case of *Gram Panchayat Navlakh Umbre v/s. Union of India and Ors.* [PIL No. 115/2010 etc Judgement dated 28.06.2012], has held as follows:-

"24.The scheme of the notification dated 14 September 2006 contemplates an application by the project proponent, the finalization of comprehensive terms




 Yellahanka Puttenahalli
 Lake & Bird Conservation Trust (Regd)

of reference by the SEAC and the conduct of EIA studies by the project proponent on the basis of the terms of reference approved by the SEAC. Thereupon a draft EIA report has to be prepared on the basis of the EIA studies. A public consultation is to take place on the basis of the draft EIA report. The final EIA report is prepared on the basis of a compliance of the grievances that are raised during the course of the public consultation. Thereupon a final EIA report has to be submitted to the SEAC. The SEAC in turn conducts a detailed scrutiny of the final EIA report, the report of the public consultation and the application and has to address environmental and other concerns.....The SEAC is primarily a body consisting of experts. The importance which the notification attributes to the SEAC is evident from the fact that under clause 4(iii), the SEIAA is required to base its decision on the recommendations of the SEAC. Moreover, under Clause 8(ii) the SEIAA is to normally accept the recommendations of the SEAC and where it differs from those recommendations to furnish reasons for the disagreement, while requesting reconsideration by the SEAC. The process of screening, scoping and appraisal by the SEAC is of utmost importance and is a vital element in the ultimate process of decision making leading upto the grant or rejection of an environmental clearance. The notification indicates time lines for the performance of various tasks which are assigned to the SEAC. Initially when it screens a proposal, the SEAC has to determine whether or not the project or activity requires further environmental studies for the preparation of an EIA report. In the stage of scoping the SEAC, before it formulates comprehensive terms of reference has to address all relevant environmental concerns for the preparation of an EIA report in respect of the project or activity for which clearance is sought. The notification envisages that, where it considers necessary, the SEAC




 Yelahanka Puttonahalli
 Lake & Bird Conservation Trust (Regd)

can even conduct a site visit. Once the terms of reference are formulated and finalized by the SEAC, the next stage involves the conducting of EIA studies. The Terms of Reference provide the analytical framework on the basis of which EIA studies are conducted. The preparation of the Terms of Reference is not a meaningless formality. They contain a framework of identifying environmental concerns with reference to which EIA studies are conducted. The notification requires public consultation not only with locally affected persons but all other persons having even a plausible stake in the environmental aspects of the project. Finally, when it comes to the stage of appraisal, the SEAC has to conduct the process in a transparent manner on the basis of the application and other documents such as the final EIA report, the report of public consultation and other relevant material.

25. In the present case, it is evident that the SEAC has acted in a casual manner without understanding either the vital implications of the function which is assigned to it under the notification or the consequences of its decision making process. The Court in the exercise of its power of judicial review is cognizant of the fact that the SEAC is drawn from experts in the field. Even so, it is necessary that the SEAC discharges its duties with a high degree of accountability and responsiveness having regard to the fact that it is an institution which is created with a view to facilitate environmental governance. Environmental governance requires decision makers to bear in mind the principles of sustainable development. The principles of sustainable development require a balance to be drawn between the need for development on the one hand and the protection of the environment on the other. In taking into account the principles of sustainable development, an authority such as the SEAC must bring its attention to bear on relevant factors such as the need to preserve the natural resources for the benefit of future generations, the



A handwritten signature in blue ink, appearing to be "Y.P." or similar initials.

Yelahanka Puttenahalli
Lake & Bird Conservation Trust (Regd)

sustainable prudent or rationale use of natural resources, the equitable engagement of natural resources and the need to ensure that environmental considerations are integrated into economic and development plans, programmes and processes. Among the fundamental principles of environmental governance are principles that foster access to information; access to justice to the community which is liable to be affected and governance based on rule of law. Access to information, particularly to impoverished and marginalised communities, which populate our rural land scape is of vital importance. Communities must have access to all information in order to be satisfied that a proposed project meets standards of safety; that the site upon which the project is to be located is environmentally conducive and that the project will not result in a destruction of the natural habitat. Denial of information is the surest way to deprive rural communities of human rights and leads to a sense of alienation. Access to information is a source empowerment. Participatory decision making must hence be an ingredient of environmental governance in a true sense of the term. Merely observing the forms of participation without the substance is to negate fundamental human rights. When expert bodies are conferred with statutory duties which are envisaged in the public interest, particularly having regard to the need to protect sensitive interests such as those of the environment, it is necessary that those duties must be performed scrupulously keeping in mind the safeguards which are provided by enacting legal provisions.....”

[A true copy of the caselaw *Gram Panchayat Navlakh Umbre v/s. Union of India and Ors.* (PIL No. 115/2010 etc Judgement dated 28.06.2012) passed by the Hon’ble High Court Judicature




 Yelahanka Puttenahalli
 Lake & Bird Conservation Trust (Regd)

at Bombay is herein annexed as ANNEXURE A-37

(pages 79 to 119

61. Thus, in view of the above submissions, it is most humbly prayed that the Hon'ble Tribunal may be pleased to allow the present appeal and thereby:-

1. Declare the Environmental Clearance *vide* SEIAA 20 IND 2014 dated 01.09.2015 granted by the Karnataka State Environment Impact Assessment Authority (Respondent No. 2) to the Karnataka Power Corporation Ltd. (Respondent No. 4 herein) as null and void as being contrary to the provisions of Environmental Impact Assessment Notification of 2006, and hence cancel the same, and
2. Direct the Karnataka Power Corporation Ltd. (Respondent No. 4 herein) not to put up the Gas-based Combined Cycle Power Plant at the present site in the vicinity of the Puttenahalli Bird Conservation Reserve and thereby restore the damage done the Puttenahalli-Yelahanka Lakes by illegal encroachments on the lake areas, and



3. Issue an order directing the Respondent No. 4 for restitution of environment and to ensure protection of biodiversity of the Puttenahalli and Yelahanka Lakes and to ensure protection of aquatic life, flora and fauna.



DEPONENT

Yelahanka Puttenahalli
Lake & Bird Conservation Trust (Regd)

VERIFICATION:

I, Dr. K. S. Sangunni, on this 28th day of October, 2020 at Bangalore, do hereby verify that the contents of the above rejoinder-affidavit in paras 1 to 6~~7~~ are true to my personal knowledge and belief, and I believe the same to be true and correct and I have not suppressed any material facts.



DEPONENT

Yelahanka Puttenahalli
Lake & Bird Conservation Trust (Regd)



SWORN TO BEFORE ME

G.P. Chaya

G.P. CHAYA, B.Com., LL.B.
ADVOCATE & NOTARY
GOVT. OF INDIA
No. 8, 3rd Cross, Madhameswara Garden,
Madhav Nagar, Bangalore - 560 025

28 OCT 2020

ITEM NO.20

COURT NO.17

Annexure A-30

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

68

Special Leave to Appeal (C) No(s). 10555/2019

YELAHANKA PUTTENAHALLI LAKE AND BIRD CONSERVATION TRUST
(REGD.)Petitioner(s)

VERSUS

MINISTRY OF ENVIRONMENT FORESTS AND CLIMATE CHANGE &
ORS.Respondent(s)

(To list I.A. for Impleadment (I.A. No. 127239/2019)
IA No. 127239/2019 - INTERVENTION/IMPLEADMENT)

Date : 13-11-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HEMANT GUPTA
[IN CHAMBER]

For Petitioner(s)

Mr. Abdul Azeem Kalebudde, AOR

For Respondent(s)

Mr. Chandrashekhar A. Chakalabbi, Adv.
Mr. S.K. Pandey, Adv.
Mr. Anshul Kr. Adv.
Mr. Awanish Kr. Adv.
M/S. Dharmaprabhas Law Associates, AOR

UPON hearing the counsel the Court made the following
O R D E R

The learned counsel appearing for Respondent No. 4 seeks some
time to file reply to the application for impleadment. Reply be
filed within four weeks. List immediately thereafter.

Signature: RADEEP RAWAT)
RAJENDRA KUMAR
Date: 2019/11/19
17:36:06 IST
Reason:
SENIOR PERSONAL ASSISTANT

(VIRENDRA MOHAN BHATNAGAR)
BRANCH OFFICER


TRUE COPY

ITEM NO.3

COURT NO.15

Annexure A-31
SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

69

Petition(s) for Special Leave to Appeal (C) No(s). 10555/2019

YELAHANKA PUTTENAHALLI LAKE AND BIRD CONSERVATION TRUST (REGD.)
Petitioner(s)

VERSUS

MINISTRY OF ENVIRONMENT FORESTS AND CLIMATE CHANGE & ORS.
Respondent(s)

(To list I.A. for Impleadment (I.A. No. 127239/2019)

IA No. 127239/2019 - INTERVENTION/IMPLEADMENT)

Date : 13-01-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI
[IN CHAMBER]

For Petitioner(s)

Mr. Abdul Azeem Kalebudde, AOR

For Respondent(s)

M/S. Dharmaprabhas Law Associates, AOR
Mr. Chandrashekhar, Adv
Tanya john, Adv
Mr. Anshul, Adv
Mr. Shiv Kumar, Adv
Mr. Awneesh, Adv

UPON hearing the counsel the Court made the following
O R D E R

The applicant is permitted to intervene in the proceedings.

List in the court.

(MANASWINI DEVI SHARMA)
SENIOR PERSONAL ASSISTANT

Signature No. 11111111
Digitally signed by
Manaswini Sharma
Date: 2020.01.17
17:05:26 IST
Reason:

(SUNIL KUMAR RAJVANSHI)
BRANCH OFFICER


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Annexure A-32

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KPCL

ಕರ್ನಾಟಕ ವಿದ್ಯುತ್ ನಿಗಮ ನಿಯಮಿತ
KARNATAKA POWER CORPORATION LTD.,
(A premier power generating company of Government of Karnataka)

No. TDYCCPP/ETPI 340

Date: 18.05.2016

To

The Chief Executive Officer
Karnataka Lake conservation & Development Authority,
No.49, 2nd floor, Parisara Bhavan, Church Street,
BENGALURU-560 001

Kind attention: Sri Ajai Misra
Email: ceolda@gmail.com

Sir,

Subject: Permission to discharge treated effluent from Yelahanka combine cycle power plant into Puttenahalli lake reg.

Karnataka Power Corporation Limited, a Government of Karnataka undertaking is engaged in the Service of generating electrical power in the state of Karnataka. KPCL is setting up 1x370 MW Combined cycle Power project at Yelahanka, Doddaballpur road, Bangalore. The plant is situated adjacent to Puttenahalli Lake.

The above plant is designed to use tertiary water for the process requirement (Boiler water, Cooling water etc.) to be supplied Bangalore water supply & sewage board from their Jakkur treatment plant. The water requirement is 600 M³/hour. After the process, about 190 M³ of waste water is generated. The analysis of the effluent so generated is as per the Annexure enclosed herewith.

The above effluent needs to be discharged outside the plant after treatment. In the present case we propose to discharge the effluent into Yelahanka Lake situated adjacent to our plant boundary through storm water drain passing through the plant, after necessary treatment to meet the standards as per statutory requirement.

Kind consent for the above proposal is requested after examining our proposal of discharging the waste water (Analysis of waste water enclosed). Also kindly advice if any further treatment is necessary for the effluent to be discharged, so that the same can be incorporated at our end.

Handwritten notes:
Thanking you
Examine the matter
regard to E.P. Act / water
and furnish their opinion
along with the values of
parameters (before the
water is let out in any stream)
Also take the opinion
of ...
DDP (E.E)

Yours faithfully,
For Karnataka Power Corporation Limited.

Chief Engineer (Thermal Designs)

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Annexure A-33



71

Environmental Management & Policy Research Institute

Department of Forest, Ecology and Environment, Government of Karnataka

Ritu Kakkar, IFS.,
Director General

No. CLC/GC/CR-03/2014-15/ 226

Date: 06.07.2016

To,
The Chief Executive Officer,
Karnataka Lake Conservation & Development Authority,
No. 49, 2nd Floor, Parisara Bhavan, Church Street,
Bengaluru - 05

SUB: Permission to discharge treated effluent from Yelahanka combine cycle power plant into puttenahalli lake.

With reference to the above cited subject, as per the analysis report enclosed by you shows that the parameters such as Total Dissolved Solids, Total Residual Chlorine, Mercury, and water temperature have exceeded the limits and this in-turn has an impact on the water quality and as well as on the aquatic flora and fauna (Sl. No. 8, 22, 34 & 43). We have enclosed the present status of the lake documented during the project "Inventorisation of water bodies in BDA and BBMP Area" underway by EMPRI.

With regards,

Yours Sincerely,

Rt Kakkar

(Ritu Kakkar)
Director General
EMPRI

K.L.C.D.A.
Bangalors

No. 704 Date 3/7/16

Issued Under RTI Act, 2005

[Signature]

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P-8/17
12/17
CED



ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
Karnataka State Pollution Control Board

"ಪರಿಸರಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ.49, ಚರ್ಚ್‌ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ, ಭಾರತ
"Parisara Bhavana", 1st to 5th Floor, # 49, Church Street, Bengaluru - 560 001, Karnataka, INDIA

NO: PCB/CEO(NEIA-BNG)/KPCI/CFO/2016-17/2705 DAT: 09 AUG 2016

To,
The Chief Engineer (G.S.W.),
M/s. Karnataka Power Corporation Limited,
Yelahanka Combined Cycle Power Plant (YCCPP),
Sy. No. 44(P),45,46,47/1-2,48,56/1 to 9,57,58,59,60/1-2,61,
62/1-2,63,64,65,66/1-2,67 of Puttenahalli village,
24,25,26-P,28P of Kenchanahalli village, Yelahanka, Bengaluru.

K.L.C.D.A.
Bangalore
No. 104 Date 10/8/11

Sir,

Sub: Permission to discharge treated effluent from 1 x 370 MW Yelahanka Combined Cycle Power Plant into Yelahanka lake-reg.

- Ref: 1. Board Office CFE vide No: H1033 Dated: 02.11.2016.
2. Environmental Clearance issued by SLEIAA- Karnataka Vide No: SEIAA20 IND 2014 Dated: 01.09.2015.
3. Addendum to the CFE issued by the Board vide 6519 Dated: 05.03.2016.
4. Industry letter No. 474, dated: 31.05.2016.
5. Regional officer letter No. 5288, dated: 13.07.2016.

&&&&

With reference to the above subject, it is to be informed that, Board has issued CFE to establish CNG based Combined Cycle Power Plant of capacity 350 MW \pm 20% at Yelahanka Combined Cycle Power Plant (YCCPP), Sy. No. 44(P),45,46,47/1-2,48,56/1 to 9,57,58,59,60/1-2,61,62/1-2,63,64,65,66/1-2,67 of Puttenahalli village, 24,25,26-P,28P of Kenchanahalli village, Yelahanka, Bengaluru. You have also obtained EC from SLEIAA-Karnataka on 01.09.2015.

Further, you have submitted a letter and stated that, you are using tertiary water supplied by BWSSB from Jakkur STP. The treatment plant proposed for treating the trade effluent generated from the process shall consists of ultra-filtration & 2 stages RO (Reverse Osmosis). The unit is generating about 190 M³ of treated waste water with the TDS ranging 6000-7000 mg/l and you have requested to give permission for discharging this High TDS effluent to Yelahanka Lake, which is adjacent to the boundary.

In this regard, Board has sought clarification from Regional officer and it was opined that the Yelahanka lake is being used for fish harvesting through Department of Fisheries and the discharge of treated effluent will definitely impact negatively on lake

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water quality, further it is to be stated that the KPCL cannot have a control on the treatment efficiency to ensure required treated water quality round the clock throughout the year. There is also the possibility of problems due to operation and maintenance, which may lead to poor quality of treatment and hence, it is opined that discharge of treated effluent to the lake cannot be considered as an option for disposal of treated trade effluent/ high TDS effluents.

You are directed to comply with the CFE conditions issued vide Ref (1) of reusing the treated water after Ultra-filtration and Reverse Osmosis system for gardening, plant washing and fire protection.

Further, the EC issued by SEIAA has also stipulated a condition to re-circulate and re-use the treated water within the premises.

Yours Faithfully,

Sd/-
MEMBER SECRETARY

Copy to:

1. The Chief Executive Officer, Karnataka Lake Conservation and Development Authority, 2nd Floor, Parisara Bhavan, # 49, Church Street, Bangalore for information and to the reply for their letter No: KLCDA/CR-20/Yelahanka - Puttenahalli- KPCL/2016-17/281 Dated: 18.06.2016.
2. The Regional SEO, Bangalore North for information and necessary action.
3. The Regional officer, Yelahanka for information and necessary action.
4. Case file.

Issued Under RTI Act, 2005

CHIEF ENVIRONMENTAL OFFICER

TRUE COPY

Annexure A-35 74

Karnataka Veterinary Animal & Fisheries Sciences University, Bidar
Fisheries Research and Information Center (Inland)
10th Cross, Mayura Street, Papanna Layout,
Hebbal Outer Ring Road, Bangalore - 560 094

Dr. K.N.PRABHUDEVA
Professor & Head
(Former Director of Extension)



Tele-fax: 80-2351 645 1
Mobile No.: 9449017554
Email: knprabhudeva@gmail.com
frichbangalore@gmail.com

No. KVAFSU/ERIC (I)/ 4 / 2016-17

Date: 12-08-2016

To,
The Chief Executive Officer,
Karnataka Lake Conservation and Development Authority,
2nd Floor, Parisara Bhavan,
#49, Church Street, Bangalore-01

Sir,

K.L.C.D.A.
Bangalore
No. 1095 Date 22/8/16

Sub: Permission to discharge treated effluent form Yelahanka Combine Cycle Power Plant into Puttenahalli lake- reg

Ref: 1. KLCD/CR_20/Yelahanka-Puttenahalli-KPCL/2016-17/279 dt: 18.06.2016.
2. KLCD/CR_20/Yelahanka-Puttenahalli-KPCL/2016-17/489 dt: 28.07.2016.

With reference to the above, I place the following facts with respect to discharge of treated effluent from Yelahanka Combine Cycle Power Plant into Puttenahalli lake.

1. The Puttenahalli lake is a static water body and retains water throughout the year.
2. The lake overflows only during heavy rains, otherwise the water remains stagnant within the lake.
3. As per the Notification of Ministry of Environment, Forest and Climate change (MOEF&C) dated 07/12/2015 and also Apendix-26 of Tata Consulting Engineers Ltd. (TCE) Environmental standards for power plants, most of the water quality parameters getting discharged into the lake are more than the desired limits
4. Since the discharge is throughout the year and the lake will lead to eutrophication.

Issued Under RTI Act, 2005

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- 75
- 5 Since the effluent discharge temperature is very high (38.58°C), most of the sensitive flora and fauna including fish and fish food organisms will not survive, hence the destruction of biodiversity of the lake.
 - 6 The Karnataka Power Corporation Ltd., may kindly be advised to go in for further treatment of the discharge before letting into the lake in the best interest of the surrounding environment and the neighborhood.

This is for your kind information and further needful.

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Yours Faithfully

Professor and Head
FRIC, Hebbal, Bengaluru


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Annexure A-35 76

KARNATAKA STATE POLLUTION CONTROL BOARD

49, 'Parisara Bhavan', Church Street, Bangalore - 560 001

G.V. Ranga Rao IFS
Member Secretary

D.O. No. / KSPCB/NON-EIA/CEO-2/KPTCL/2017-18 07

Date 10 APR 2018

Dear Sri Ramechandra,

Sub: Request for amendment of the Specific Condition No. 3 in the EC letter issued for Yalahanka Combined Cycle Gas Power Plant (YCCPP) capacity at Sy. Nos. 44(p), 45, 46, 47/1-2, 48, 56/1 to 9, 57, 58, 59, 60/1-2, 61, 62/1-2, 63, 64, 65, 66/1-2, 67 of Pattenahalli village, 24, 25, 26-p, 28p of Kenchanahalli village, Yalahanka, Bengaluru of Karnataka Power Corporation - reg.

- Ref: 1. Environmental Clearance issued by SELAA on 01.09.2015 vide No. SELAA20IND2014
- 2. Board Office CFE vide No. KSPCB CFE/CEO/KPCL/2015-16/11033 Dated: 2.11.2015
- 3. Addendum to CFE issued by Board vide No. 6519 Dtd: 05.03.2016
- 4. KPCL letter No. TDYCCPP/ETP-474 Dtd: 31.05.2016
- 5. Board Office letter NO. 2705 Dtd: 09.08.2016
- 6. KPCL letter No. TDYCCPP/ETP-1103 Dtd: 22.08.2016
- 7. Board Office letter 3904 Dtd: 21.09.2016
- 8. KPCL letter No. TDYCCPP/ETP-1620 Dtd: 05.11.2016
- 9. Board Office letter No. 5437 Dtd: 20.12.2016
- 10. DO letter from Member Secretary - SELAA to Member Secretary - KSPCB vide No. SELAA20IND2014 Dtd: 12.03.2018.

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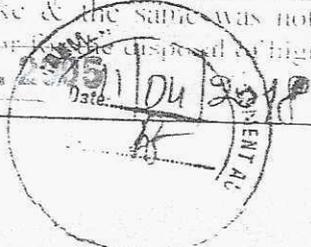
SELAA

With reference to the above subject, it is to be informed that, the EC was issued by SELAA on 01.09.2015 to this industry with a specific condition that "The treated effluent conforming to the prescribed standard only shall be recirculated & reused within the plant" (Condition 3 of part A-Specific condition). Subsequently, the Board has issued conditional CFE on 02.11.2015 to establish CNG based Combined Cycle Gas Power Plant of capacity 350 MW at Yalahanka, Bangalore.

The KPCL have approached the Board for an amendment to increase the power generation capacity from 350MW to 350+20%MW capacity as per EC condition. Accordingly, the CFE was also amended and issued on 05.03.2016 for 370 MW.

The authorities vide ref (4) have approached the Board requesting to give permission to discharge trade effluent of quantity 190 cum/hr with TDS of 2083 ppm to Yalahanka lake. They also stated that, they are going to adopt better treatment facility to achieve this level. In reply, the Board has informed vide ref (5) that, their request for discharge of treated effluent into Yalahanka Lake cannot be considered as the discharge will impact negatively on lake water quality. Again, vide ref (6), I. A. has requested for discharging the effluent to lake & the same was not considered vide ref (7) & its suggested to provide multiple effect evaporator for the disposal of high TDS effluent.

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Off : 91 80 25588270
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E-mail : memsecy@kspcb.gov.in
Website : http://kspcb.gov.in

POLLUTION PREVENTION PAYS

The industry has once again vide ref (8), sought permission to discharge the effluents into the lake. The Board vide ref (9) has informed to obtain modification of conditions in the FC.

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Now, a D.O. Letter is received from your good self to give clear opinion based on the request made by KPCL, for discharging of cooling tower blow down of capacity 98 m³ hour with TDS of 1170 ppm into Yalahanka lake by enclosing their representation date: 04.01.2018 and a compliant copy lodged by Yalahanka Puttenahalli Lake & Bird Conservation Trust Dtd: 25.01.2018, against the said proposal of KPCL. It is also mentioned in your letter regarding the application No. 57/2017 filed by M.s. Heritage Estate Apartment Owners Association before Hon'ble Nation Green Tribunal, Chennai, wherein the DEE & KSPCB are respondents.

Based on your letter, it is to be informed that, the Board has already communicated to the industry that, KSPCB is not allowing treated/ untreated effluent from any industry activity into any water bodies like lake, river etc., ever since the enactment of the Water Act, 1974. It was also suggested to this industry to provide Multiple Effective Evaporator for treatment of high TDS effluent as Zero Liquid Discharge & the sludge generated shall be disposed to a nearby TSDF facility.

Further, it is also observed that the lakes/tanks constructed in a system wherein, if one tank fills, the cascading over flow will be joining the subsequent tanks in the downstream and it follows. Hence, the discharge of treated/untreated effluent will pollute the tanks in the long run and will have cascading effect on all the tanks situated in the downstream of a tank. Apart from this, continuous discharge of high TDS effluent of 1170 PPM of quantity 98 Cum per hour will definitely makes the lake water hard (by increasing the hardness of water & Alkalinity) over a period of 3-4 years time, as there is no efficient proven technology for TDS removal from the effluent. Increase in high TDS concentration in the benthic may also leads to further complications on the quality of water and the water may totally become unfit for usage of any other purpose & also the TDS in ground water quality of surrounding area will increase considerably because of continuous inflow of high TDS effluent to the lake. Further, stagnation of high TDS effluent may also have serious impact on the quality of soil and retard the soil nutrients and also on aquatic life. Hence it is advisable not to allow the Factory authorities to discharge the effluent of any kind to lake directly or indirectly.

Further, Yalahanka Puttenahalli Lake & Bird Conservation Trust have already filed a compliant on 25.01.2018 to SEIAA & KSPCB against this establishment of this power plant of KPCL. Apart from this, M.s. Heritage Estate Apartment Owners Association have filed an application No. 57 of 2017, before Hon'ble NGT, Southern Zone, Chennai and the case is still pending. Hence, the issue is also subjudice. The industry may be required to implead before Hon'ble NGT & seek necessary directions.

Also, this lake has been declared as "Puttenahalli Lake Birds Conservation Reserve (Protected area)" Under Sec. 36'A' of Wildlife Protection Act, 1972 on 29.04.2015. Hence, any discharge of treated/untreated effluents into this lake may cause adverse impacts. Hence an opinion by the Forest Department may also be obtained.

Further, your reference is invited to Hon'ble NGT's order in the case No. 125/2016 with regard to Bellandur lake, wherein, the Hon'ble NGT has directed the concerned authority not to permit discharge of any effluent into Bellandur lake either treated/ untreated at all times. This order is to ensure that there is no pollution of the lake either directly or indirectly, knowingly or unknowingly, machinery, ETP failure, human error etc., which could cause the pollution to the water body. The Karnataka State Pollution Control Board is complying to the directions of Hon'ble NGT & permissions

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Not being granted to any industry/organization to discharge treated /untreated effluent, which could get discharged otherwise into water body, not only for Bellandur tank, but also for any other water body in the city of Bengaluru & other places.

This is for your kind information.

With warm regards,

Yours sincerely,



✓ Sri. Ramachandra. IFS.

Member Secretary,

State Level Environmental Impact Assessment Authority,

Room No. 706, 7th Floor, 4th Gate,

M. S. Building, Bangalore- 560001

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.115 OF 2010

WITH

CIVIL APPLICATION NO.143 OF 2010

AND

CIVIL APPLICATION NO.87 OF 2012

Gram Panchayat Navlakh Umbre
Through Navlakh Umbre Parisar Paryavaran
Vikas Sangh

..Petitioner.

versus

Union of India and others

..Respondents.

.....

Mr. K. Sultan Singh with Mr. V. Hari Pillai, Mr. K. Himmat Singh, Ms. Susha Unni and Mr. Samar Vijay Singh i/b Ms. Sartaj Shaikh and Sushila K. Chaurasia for the Petitioner.

Mr. Ajay Basutkar for Respondent No.1.

Mr. S.R. Nargolkar, Addl. GP. for Respondent No.2.

Smt. Sharmila U. Deshmukh for Respondent No.5.

Mr. Navroz Seervai, Senior Advocate with Mr. Milind Sathe, Senior Advocate, Mr. K.A. Setalvad, Senior Advocate, Mrs. R.H. Khan, Mr. Abhishek Sing and Mr. S.D. Bavalekar i/b Mulla & Mulla & Craigie Blunt & Caroe for Respondent No.6.

.....

**CORAM : DR.D.Y.CHANDRACHUD, and
R.D.DHANUKA, JJ.**

28 June 2012.

ORAL JUDGMENT (PER DR.D.Y.CHANDRACHUD, J.) :

Rule. The Learned Counsel for the Respondents waive service. By consent, the Petition is taken up for hearing and final disposal.

2. The gram panchayat of the village Navlakh Umbre has moved these proceedings under Article 226 of the Constitution through an association by the name of Navlakh Umbre Parisar Paryavaran Vikas Sangh. The Petition challenges the environmental clearances granted to the Sixth Respondent for


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setting up a 355 MWs combined cycle power project. The project is to come up in or around the villages of Navlakh Umbre and Badhalwadi, about 35 kms north west of Pune in the Maval Taluka. The Petition, which is in the nature of a public interest litigation, has been placed before the Division Bench in pursuance of administrative directions of Hon'ble the Chief Justice in view of an order of the Supreme Court dated 2 May 2012 directing the disposal of the Petition by 30 June 2012. Accordingly the Petition has been heard for final disposal with the consent of all the parties.

3. On 14 September 2006 the Ministry Of Environment and Forests of the Union Government (**MOEF**) issued a notification in exercise of powers inter alia conferred by Section 3 of the Environment (Protection) Act 1986 stipulating a requirement of a prior environmental clearance for setting up new projects or activities and for the expansion or modernization of existing projects or activities falling within the purview of the notification. The power project which is sought to be set up by the Sixth Respondent falls in category B-1 of the Schedule to the notification.

4. Between January and March 2008 agreements to sell were executed between agriculturists and a company by the name of Helios Constructions Private Limited in respect of the land on which the power project is to be set up. It is common ground that initially clearance for setting up a Special Economic Zone was obtained from the Director of Industries. The company which purchased the land was subsequently amalgamated with the Sixth Respondent, Hindustan Electricity Generation Company Private Limited. Baseline studies for


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setting up the power project were conducted between March and May 2008. On 24 March 2009 and 30 June 2009 the **MOEF** had issued circulars mandating a prior environmental clearance for the setting up of power projects.

5. On 30 September 2009 the Sixth Respondent filed an application before the State Expert Appraisal Committee (SEAC) for setting up a power project of 355 MWs +/- 10%. Form 1 in which the application was submitted envisaged three phases of which Phase - I would consist of 355 MWs. On 29 October 2009, at the 18th meeting of the SEAC draft terms of reference as submitted by the Sixth Respondent were approved and it was envisaged that on the completion of the Environmental Impact Assessment (EIA) and a public hearing, the Sixth Respondent would approach the SEAC. The Terms of Reference contained a disclosure that the study period on the basis of which the proposal was mooted was between March and May 2008, the area for the study being 10 kms around the site. The first phase envisaged the acquisition of 195 acres of land, while the second phase involved an acquisition of 172 acres of land. Following the approval of the terms of reference a public notice was issued on 9 January 2010 in the newspapers for a public hearing as contemplated by the notification dated 14 September 2006. On 26 January 2010 the Gramsabha of several villages passed a resolution opposing the project on account of environmental concerns. On 11 February 2010 the Maharashtra Pollution Control Board (MPCB) conducted a public hearing.

6. On 13 January 2010 / 15 March 2010 the Sixth Respondent submitted an application to the Union Ministry of Environment and Forests for the expansion of

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its power project from 355 MWs to 2500 MWs. On 22 March 2010 a circular was issued by the MOEF inter alia highlighting that in several cases proposals for expansion have been received though environmental clearance had not been granted or had only recently been issued. The circular inter alia clarified that in case environmental clearance for the earlier proposal was still to be accorded, the project proponent shall apply afresh and submit a comprehensive proposal for the entire project, clubbing all the phases, in order that the environmental issues could be addressed holistically.

7. On 15 April 2010 a "rapid" Environmental Impact Assessment (EIA) was submitted by the Sixth Respondent to the SEAC. Hearings of the 26th meeting of the SEAC commenced on 15 April 2010. On 16 April 2010 the SEAC recorded that the Sixth Respondent had completed the required EIA and had completed a public hearing. The SEAC formulated its decision to recommend the proposal for the grant of a prior environmental clearance to the State Environment Impact Assessment Authority (SEIAA) subject to compliance with certain conditions. Between November 2009 and April 2010 a further baseline monitoring study was conducted on behalf of the Sixth Respondent at the project site which found no significant changes in the results or parameters of the data collected between March and May 2008.

8. On 19 May 2010 a representation was filed by the Petitioners before the SEAC setting out what they regarded to be legal infirmities and social and environmental concerns arising from the project. On 14 June 2010 the present proceedings came to be instituted. On 17 June 2010, a Division Bench of this



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Court, while issuing notice, recorded the statement of Senior Counsel appearing on behalf of the Sixth Respondent "that the project is at initial stage and awaiting necessary permissions and approvals". A statement was made on instructions that the Sixth Respondent " will not fell any more trees without obtaining prior approval from the relevant authorities". The recommendations made by the SEAC came up initially before the SEIAA on 9 July 2010 when the authority noted that the issue of granting environmental clearance would be considered after the submission of documents set out in the minutes. On 19 July 2010 a notice to show cause was issued by the MPCB to the Sixth Respondent alleging that the Sixth Respondent had carried out work at the site even before obtaining prior environmental clearance in breach of the provisions of the notification dated 14 September 2006. In its reply dated 20 July 2010 the Sixth Respondent asserted that it had a deemed clearance with effect from 10 June 2010 in terms of the notification dated 14 September 2006. According to the Sixth Respondent in August 2010 a study was commissioned by I.I.T. Chennai on air pollution. The report dealt with the dispersion of ground level concentration of NO₂ emitted from the stack of the power project which showed that the predicted minimum 24 hours' average level concentration was less than the prescribed limit for residential, rural and other areas.

9. On 20 October 2010 a notice was issued by the Petitioners under Section 19(b) of the Environment (Protection) Act 1986. Following this a criminal complaint was filed on 13 January 2011 against the directors and officers of the Sixth Respondent and against the members of the SEAC and SEIAA by the Petitioners. The complaint proceeded on the basis that SEIAA and SEAC did


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not have jurisdiction to grant a prior environmental clearance to the power project once the Sixth Respondent had moved the MOEF with a proposal for expansion. On 17 January 2011 and 5 February 2011 respectively the Judicial Magistrate, First Class issued process against accused Nos.1 to 7 who were officials of the Sixth Respondent and subsequently against accused Nos.8 to 18 comprising of members of the SEAC and SEIAA on the basis that prima facie there was a violation of the provisions of Sections 15 and 17 of the Environment (Protection) Act 1986. On 28 February 2011 an order was passed by the J.M.F.C. allowing the bail applications of some of the accused inter alia subject to the condition that no work shall be carried out at the project site till the decision of the complaint. The State of Maharashtra filed a writ petition before this Court seeking to quash and set aside the criminal proceedings which had been adopted against the members of the SEAC and SEIAA.

10. On 24 March 2011 the Sixth Respondent addressed a letter to the MOEF stating that from 7 July 2010 it had pursued the environmental clearance only for a proposed power project comprising of 355 MWs + or – 10% and not for the proposed expansion to 2500 MWs. At the hearing before the SEIAA on 28 March 2011 the authority decided to refer the matter to the MOEF for a clarification with reference to the circular dated 22 March 2010. By a communication dated 26 April 2011 the MOEF confirmed the request of the Sixth Respondent for the withdrawal of the proposal for expansion to 2500 MWs. On 28 April 2011 the Sixth Respondent addressed a communication to the State of Maharashtra confirming the withdrawal of its application before the MOEF for expansion of its power project. Following this, the MOEF by a communication



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dated 3 August 2011 confirmed that the proposal for expansion had been withdrawn and that the project being a category B project would have to be appraised by the SEAC / SEIAA. As regards the allegation of environmental violations, the MOEF directed that its circular dated 16 November 2010 should be followed.

11. Apart from the petition filed by the State for quashing the criminal proceedings against the officials of the SEAC and SEIAA (Writ Petition 833 of 2011), a petition was filed before this Court by the Sixth Respondent (Writ Petition 8581 of 2011) seeking the issuance of a prior environmental clearance certificate. By a judgment dated 18 October 2011 a Division Bench of this Court quashed and set aside the issuance of process against the members of the SEIAA and SEAC. On 15 November 2011 a Division Bench of this Court disposed of Writ Petition 8581 of 2011 by directing the SEIAA to consider the application of the Sixth Respondent for environmental clearance to the project in the light of a decision taken at a meeting held on 28 March 2011, but without insisting on the requirement that the Sixth Respondent produces a copy of the order given for the installation of the machinery on the site and that the Sixth Respondent will not pursue expansion prior to the installation and commissioning of the project. The Division Bench was of the view that before the SEIAA issued an environmental clearance, the Sixth Respondent could not be expected to place an order for the installation of machinery. The Court also recorded the statement of the Sixth Respondent that it had already withdrawn the proposal for expansion as noted in the letter dated 3 August 2011 of the Central Government and hence "there is no question of the Petitioner going for expansion".

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12. On 4 January 2012 the State Government addressed a communication to the Sixth Respondent adverting to the fact that on a site visit conducted by the Regional Officer of the MPCB, a report had been presented to the Department of Environment from which it was noted that the Sixth Respondent had carried out tree cutting leveling and filling work at the site and that the approximate quantity of soil involved in the filling was about 1 lac cubic meters. The communication of the State Government referred to a memorandum of the MOEF dated 19 August 2010 according to which no activity relating to any project shall be undertaken without obtaining a prior environmental clearance except for fencing of the site and the construction of temporary sheds for security guards. The communication of the State Government called upon the Sixth Respondent to furnish a written communication in the form of a resolution of its Board of Directors stating that the violations of the Environment (Protection) Act 1986 would not be repeated. The communication was again challenged before a Division Bench of this Court. By an order dated 15 February 2012 the Division Bench directed the Sixth Respondent to submit a resolution to the Environment Department of the State Government to the effect that neither the Sixth Respondent nor its directors had committed any violations of the Environment (Protection) Act 1986 or the rules and, without prejudice to this contention, to furnish a commitment that no breaches would be committed thereafter. The Division Bench directed that upon the submission of such an undertaking, the Environment Department of the State Government "shall issue the requisite permission within two weeks from the date of receipt of the resolution". Following the order of the Division Bench, the SEIAA granted its approval to the


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project at its meeting held on 8/9 December 2011. A formal permission was communicated thereafter on 22 February 2012. On 5 March 2012 the writ petition was disposed of by the Division Bench. The Division Bench clarified that the Court had not expressed any opinion on any of the contentions raised in the petition or on the communication of the State Government dated 4 January 2012 about the Sixth Respondent or its directors having committed a violation of the Environment (Protection) Act 1986 or in regard to the contention of the Sixth Respondent relating to a deemed prior environmental clearance.

13. In proceedings under Article 136 of the Constitution, the Supreme Court by an order dated 1 March 2012 directed that the permission granted to the Sixth Respondent by the letter dated 22 February 2012 shall remain in abeyance. By a subsequent order dated 2 May 2012, the Supreme Court directed that it would be open to the Sixth Respondent to (i) place its orders for purchase of machineries; (ii) construct a boundary wall around the premises where the power plant is proposed to be set up; (iii) plant trees; (iv) furnish notice to proceed to the contractors and (v) take steps to tie up finances including equity participation, if any, at its own risk and subject to the final result of the present proceedings and the Special Leave Petition.

14. In the petition as it has been originally filed, the Petitioners have sought to challenge, *inter alia* the orders dated 29 October 2009 and 16 April 2010 passed by the SEAC and sought a direction to the effect that the proposed project should be shifted to an alternate industrial site and ought not be established at the proposed site at village Navlakh Umbre. Consequential reliefs have been



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sought, *inter alia* for conducting a comprehensive study, a fresh public hearing and a restraint on undertaking any activity pertaining to the project. In Civil Application 143 of 2010 the Petitioner sought a direction restraining the Sixth Respondent from proceeding further with all work and activity and a direction to the MPCB and SEIAA to file reports. In Civil Application 87 of 2012 the Petitioner has sought to place certain additional documents on the record and to challenge the environmental clearance granted by the SEIAA on 26 August 2010. Learned Senior Counsel appearing on behalf of the Sixth Respondent has not opposed the Civil Application in so far as it seeks to challenge the subsequent permissions and to place additional documentary material on the record before the Court so as to enable the Court to render a complete adjudication of all the issues that arise in these proceedings.

15. Counsel appearing on behalf of the Petitioners submitted that –

- i) The Terms of Reference which form the basis of Environmental Impact Assessment (EIA) studies were approved by the SEAC without any application of mind. Neither was any site visit conducted by the SEAC nor was any environmental issue considered or discussed before the Terms of Reference were approved;
- ii) The final EIA report purportedly furnished by the project proponent was not analyzed or scrutinized by the SEAC and the recommendation accorded to the project was without application of mind. The procedure which has been prescribed in the notification dated 14 September 2006 was evidently not followed. The final EIA

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report was filed before the SEAC on 15 April 2010. The notification dated 14 September 2006 provides for the procedure to be followed in the SEAC on receipt of the final EIA. The final EIA has to be scrutinized and objections have to be formulated. The SEAC, however, issued its recommendations on the very next day without having regard to the circumstances to which a reference is required by the terms of the notification;

- iii) The recommendation issued by the SEAC on 16 April 2010 suffered from a lack of jurisdiction. The Sixth Respondent had moved an application before the Central Government on 15 March 2010 for expansion of the project. On 16 April 2010 when a recommendation was issued by the SEAC, the proposal for expansion was pending before the Union Government. In terms of the circular issued by the MOEF on 22 March 2010, once a proposal for expansion was moved before the Central Government and prior environmental clearance has not been granted by the SEAC, a fresh proposal for the entire project was required to be submitted to the Central Government and the jurisdiction to decide upon it vested exclusively with the MOEF. The withdrawal of the application for expansion before the Central Government took place much later. The Sixth Respondent in its letter dated 24 March 2011 also clarified that it was with effect from 7 July 2010 that the Sixth Respondent ceased to press the application for expansion. Consequently on the date on which the SEAC granted its recommendation, it had no jurisdiction to do so;
- iv) In the present case the EIA studies and environmental data preceded

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the formulation of the terms of reference, whereas the clear intendment of the notification dated 14 September 2006 is that such studies must be undertaken after the terms of reference are formulated;

- v) The villagers on whose behalf these proceedings have been instituted had addressed repeated representations to all statutory authorities concerned including the SEAC and SEIAA drawing attention to the violations on the part of the developer in commencing work in the absence of an environmental clearance. No just and fair opportunity of being heard was afforded to them. Despite the undertaking furnished to this Court on 17 June 2010, the Sixth Respondent continued to carry out work without prior environmental clearance and in breach of the clear mandate of the notification. The MPCB having found justification in the grievance of the Petitioners in regard to the carrying on of work illegally, also issued a notice dated 19 July 2010. SEIAA has proceeded to grant its clearance without any adjudication of the notice;
- vi) The plea of the Sixth Respondent of a deemed environmental clearance with effect from 3 June 2010 is based on the foundation that the SEIAA had not acted upon the recommendation of the SEAC within the prescribed period of 45 days. This claim is unsustainable because – (1) The recommendation of the SEAC dated 16 July 2010 is invalid both for want of jurisdiction and on the grounds set out earlier; (2) Even before this Court on 17 June 2010 the Sixth Respondent stated that it had yet not secured environmental



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clearance; (3) The Sixth Respondent participated before the SEIAA without raising the claim that it had secured a deemed environmental clearance; and (4) Until date no court or authority has adjudicated upon the claim of the Sixth Respondent to a deemed environmental clearance.

16. The learned AGP appearing on behalf of the State Government, as well as the SEAC and SEIAA submitted that –

- i) The SEAC and SEIAA were justified in ruling upon the application filed by the Sixth Respondent. On 16 April 2010 the SEAC was not informed of the fact that the Sixth Respondent had moved the MOEF with a proposal for expansion. In any event, the circular dated 22 March 2010 postulates the filing of a fresh proposal before the MOEF. In view of the mandate of the circular dated 22 March 2010, the earlier proposal filed by the Sixth Respondent before the MOEF on 15 March 2010 would cease to have any validity. In the absence of a fresh proposal by the Sixth Respondent before the MOEF comprehensively dealing with all phases of the project, the SEAC was within jurisdiction in entertaining the application for the grant of a clearance for the project to the extent of 355 MWs;
- ii) On the withdrawal of the application filed by the Sixth Respondent before the MOEF for expansion, the SEAC would in any event have jurisdiction to consider the original proposal for a project of 355 MWs. In that view of the matter and since as a result of the subsequent developments, the Union Government clarified that the proposal for



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- expansion has been withdrawn and the file has been closed, there is no reason for this Court in the exercise of its jurisdiction in a public interest petition to interfere with the grant of environmental clearance by the SEAC / SEIAA;
- iii) The issue as to whether the SEAC did have jurisdiction is covered by the judgments of the Division Bench of this Court dated 18 October 2011 and 15 November 2011;
 - iv) The SEAC is composed of experts drawn from diverse fields. The SEAC in the present case considered relevant material and its recommendations were based on facts on the record;
 - v) The SEIAA is guided by the recommendations of the SEAC since the latter is a committee of experts drawn from diverse fields. Yet the SEIAA must apply its mind to the recommendations, which it has done before proceeding to grant an environmental clearance.

17. Learned Senior Counsel appearing on behalf of the Sixth Respondent submitted that :-

- i) The terms of reference constitute the basis and foundation of the consideration of the project which takes places, once the final EIA has been formulated, before the SEAC. Merely because the decision of the SEAC is brief and was taken in a day does not show that there was no application of mind;
- ii) The concept of a deeming provision is an integral part of the notification dated 14 September 2006, The notification prescribes time limits which are mandatorily required to be observed. The SEAC at its

meeting held on 16 April 2010 recommended the grant of an environmental clearance to the SEIAA. Thereafter the SEIAA having failed to notify its decision within a period of 45 days, the Sixth Respondent must be deemed to have obtained permission to proceed with the work with effect from 3 June 2010. The petition before this Court was filed on the basis that the Sixth Respondent would assert a claim to a deemed permission. After the Division Bench passed its first order in the proceedings on 17 June 2010 the Sixth Respondent filed an affidavit in reply on 28 July 2010 asserting that it had deemed permission. On 9 August 2010 the Petitioners, in the Civil Application, sought an injunction against the Sixth Respondent from carrying out work. Thereafter there was no ad interim order on the Civil Application for interim relief for a period of nearly two years. There was consequently in law no prohibition on the Sixth Respondent proceeding ahead with the work of the project;

- iii) The use of the expression "jurisdiction" in the context of the exercise of the power by the SEAC to make its recommendation is erroneous. The power of the SEAC to make its recommendation does not raise an issue of jurisdiction as commonly understood in law. In any event, the order of this Court dated 18 October 2011 specifically dealt with the issue as to whether the SEAC had the jurisdiction to entertain the application of the Sixth Respondent and the issue was answered in favour of the Sixth Respondent. This has also been clarified in the subsequent order of the Division Bench dated 15 November 2011;
- iv) A fresh study was carried out between November 2009 and April



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2010, which confirmed the findings of the earlier study based on data gathered between March and May 2008. Even if a study could have been done in a better fashion, that would not invalidate the existing study, based on administrative law standards. The final EIA permission dated 22 February 2010 contains detailed specifications to be observed by the Sixth Respondent which shows an adequate and careful application of mind;

- v) The proceedings before the SEIAA of 8/9 December 2011 would indicate that the authority had determined at the meeting that the environmental clearance should be granted. The order passed by the Division Bench thereafter, only directed the enforcement of the permission which was already decided upon at the meeting that was held on 8/9 December 2011.

18. The rival submissions now fall for consideration.

19. On 14 September 2006 the Union Government in the Ministry of Environment and Forests directed that thenceforth the setting up of new projects or activities as well as the expansion or modernization of existing projects and activities listed out in the Schedule to the notification shall be undertaken only after prior environmental clearance from the Central Government, or as the case may be, by the State Level Environment Impact Assessment Authority constituted under Section 3(3) of the Environment (Protection) Act 1986. Clause 2 of the notification specifies inter alia that while projects falling under Category A of the Schedule are required to be referred to the Central Government in the

MOEF, projects falling under Category B would fall within the purview of the SEIAA. Thermal Power Plants are specified at Entry 1(d) of the Schedule. Plants involving a capacity of less than 500 MWs fall in Category B. Such projects require the prior environmental clearance of the SEIAA. Clause 4(iii) of the notification emphasizes that the SEIAA shall base its decision on the recommendations of the State Expert Appraisal Committee (SEAC) as constituted under the notification. The SEAC at the level of the State Government and the EAC at the Central Government are required to screen, scope and appraise projects falling under Category B and Category A respectively. Clause 5(d) empowers the members of the SEAC, or as the case may be, EAC to inspect any site connected with the project or activity in respect of which prior environmental clearance is sought. Under clause 6 an application for prior environmental clearance is required to be submitted in Form I, after the identification of the prospective site and before commencing any construction activity or preparation of land at site.

20. Clause 7 of the notification specifies the stages involved in the grant of an environmental clearance. For new projects the process of granting an environmental clearance comprehends four stages, these being – (i) Screening, which is required for Category B projects; (ii) Scoping; (iii) Public consultation; and (iv) Appraisal. The first stage involving screening of a project requires the SEAC to determine whether or not the project or activity requires further environmental studies for the preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of an environmental clearance. Projects requiring an EIA report are termed as Category B-1 projects.



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The SEAC, in the preliminary process of screening is therefore required to determine at the outset whether or not the project requires further environmental studies in order to facilitate the preparation of an EIA. This is the first aspect to which attention is required to be devoted by the SEAC. The next stage involves scoping, under which the SEAC in the case of a Category B-1 project has to determine detailed and comprehensive terms of reference addressing all relevant environmental concerns for the preparation of an Environmental Impact Assessment report. The SEAC has to determine the terms of reference on the basis of the information furnished in the prescribed application form including the terms of reference as proposed, a site visit by a sub-group of the committee if it considers that to be necessary and other information that may be available with the committee. The obligation to determine the Terms of Reference is of the SEAC. Those which are suggested by the proponent of the project are at best, a guide. The SEAC is not confined to them nor is it constrained by what the project proponent suggests. The SEAC may bring to bear on its task any information that may be available with it. The Terms of Reference are required to be finalized by the SEAC within sixty days of the receipt of Form I. If the SEAC fails to do so, the terms of reference suggested by the applicant are to be deemed as final terms of reference approved for EIA studies. An application for a prior environmental clearance can be rejected at this stage itself by the regulatory authority on the recommendation of the EAC or the SEAC.

21. The third stage involves public consultation, a process by which the concerns of locally affected persons and others who have a plausible stake in the environmental impacts of the project or activity are ascertained with a view to


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taking into account all material concerns arising from the project or activity or design. The process of public consultation is conducted by the State Pollution Control Board and has two components : (i) a public hearing in close proximity to the site to be carried out for ascertaining the views of locally affected persons and (ii) obtaining responses from other persons with a plausible stake in the environmental aspects of the project or activity. After the completion of the public consultation, the applicant is required to address all the material environmental concerns expressed during this process and to make appropriate changes in the draft EIA. The final EIA report is then to be submitted to the concerned regulatory authority for appraisal.

22. The fourth stage is that of appraisal in the course of which a detailed scrutiny is made by the SEAC of the application and all the other documents such as the final EIA report and the outcome of public consultation. The notification mandates that the process of appraisal must be carried out in a transparent manner in a proceeding to which the applicant is invited for furnishing clarifications. On the conclusion of the proceedings, the SEAC has to make recommendations to the regulatory authority either for the grant of a prior environmental clearance on stipulated terms or the rejection of the application for environmental clearance. The appraisal of an application has to be completed by the SEAC within sixty days of the receipt of the final EIA.

23. Upon the submission of the recommendations of the SEAC, the regulatory authority is to consider the recommendations of the SEAC and to convey its decision to the applicant within 45 days of the receipt of the recommendations.

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The importance which the notification ascribes to the recommendations of the SEAC is evident from the fact that the notification stipulates that the regulatory authority shall normally accept the recommendations of the SEAC. In cases where the SEIAA disagrees with the recommendations, it shall request reconsideration by the SEAC within a stipulated time frame indicating the reasons for its disagreement. Clause 8(iii) of the notification provides that in the event that the decision of the regulatory authority is not communicated to the applicant within the period specified, the applicant may proceed as if the environment clearance sought for has been granted, or as the case may be, denied in terms of the final recommendations of the SEAC. Appendix V to the notification specifies in detail the procedure for appraisal by the SEAC. Appendix V provides that the final EIA report and other relevant documents submitted by the applicant shall be scrutinized in the office within thirty days from receipt by the regulatory authority strictly with reference to the terms of reference and inadequacies noted must be communicated to the members of the SEAC. The composition of the SEAC is laid down in Appendix VI. The SEACs are to consist *inter alia* of experts drawn from diverse disciplines of environmental science.

24. Now it is in the background of the mandate of the notification dated 14 September 2006 that it would be necessary to consider the procedure that was followed in the present case. At the outset, it must be noted that the environmental studies which form the basis of the original proposal of the Sixth Respondent were conducted between March and May 2008. The Sixth Respondent submitted an application before the SEAC on 30 September 2009.



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On 29 October 2009, the SEAC approved the draft terms of reference as submitted by the Sixth Respondent. The scheme of the notification dated 14 September 2006 contemplates an application by the project proponent, the finalization of comprehensive terms of reference by the SEAC and the conduct of EIA studies by the project proponent on the basis of the terms of reference approved by the SEAC. Thereupon a draft EIA report has to be prepared on the basis of the EIA studies. A public consultation is to take place on the basis of the draft EIA report. The final EIA report is prepared on the basis of a compliance of the grievances that are raised during the course of the public consultation. Thereupon a final EIA report has to be submitted to the SEAC. The SEAC in turn conducts a detailed scrutiny of the final EIA report, the report of the public consultation and the application and has to address environmental and other concerns. In the present case, it is evident that the SEAC initially dealt with the application submitted by the Sixth Respondent on 29 October 2009 when the draft terms of reference were approved. A public consultation took place thereafter on the basis of the draft EIA report. Upon the final EIA report being submitted to the SEAC on 15 April 2010, the SEAC took up the matter on the very next day. As a matter of fact, the record before the Court would indicate that the SEAC had already commenced its 26th meeting on 15 April 2010. The mandatory procedure which was required to be followed under the terms of the notification envisages that upon the submission of the final EIA report, the report is required to be scrutinized within thirty days of its receipt by the regulatory authority concerned strictly with reference to the terms of reference and the inadequacies, if any, are required to be noted and to be communicated to the members of the SEAC. Evidently, there was no such scrutiny of the final


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EIA report before it was taken up for consideration by the members of the SEAC within a day of its submission on 15 April 2010. The SEAC is primarily a body consisting of experts. The importance which the notification attributes to the SEAC is evident from the fact that under clause 4(iii), the SEIAA is required to base its decision on the recommendations of the SEAC. Moreover, under Clause 8(ii) the SEIAA is to normally accept the recommendations of the SEAC and where it differs from those recommendations to furnish reasons for the disagreement, while requesting reconsideration by the SEAC. The process of screening, scoping and appraisal by the SEAC is of utmost importance and is a vital element in the ultimate process of decision making leading upto the grant or rejection of an environmental clearance. The notification indicates time lines for the performance of various tasks which are assigned to the SEAC. Initially when it screens a proposal, the SEAC has to determine whether or not the project or activity requires further environmental studies for the preparation of an EIA report. In the stage of scoping the SEAC, before it formulates comprehensive terms of reference has to address all relevant environmental concerns for the preparation of an EIA report in respect of the project or activity for which clearance is sought. The notification envisages that, where it considers necessary, the SEAC can even conduct a site visit. Once the terms of reference are formulated and finalized by the SEAC, the next stage involves the conducting of EIA studies. The Terms of Reference provide the analytical framework on the basis of which EIA studies are conducted. The preparation of the Terms of Reference is not a meaningless formality. They contain a framework of identifying environmental concerns with reference to which EIA studies are conducted. The notification requires public consultation not only

with locally affected persons but all other persons having even a plausible stake in the environmental aspects of the project. Finally, when it comes to the stage of appraisal, the SEAC has to conduct the process in a transparent manner on the basis of the application and other documents such as the final EIA report, the report of public consultation and other relevant material.

25. In the present case, it is evident that the SEAC has acted in a casual manner without understanding either the vital implications of the function which is assigned to it under the notification or the consequences of its decision making process. The Court in the exercise of its power of judicial review is cognizant of the fact that the SEAC is drawn from experts in the field. Even so, it is necessary that the SEAC discharges its duties with a high degree of accountability and responsiveness having regard to the fact that it is an institution which is created with a view to facilitate environmental governance. Environmental governance requires decision makers to bear in mind the principles of sustainable development. The principles of sustainable development require a balance to be drawn between the need for development on the one hand and the protection of the environment on the other. In taking into account the principles of sustainable development, an authority such as the SEAC must bring its attention to bear on relevant factors such as the need to preserve the natural resources for the benefit of future generations, the sustainable prudent or rationale use of natural resources, the equitable engagement of natural resources and the need to ensure that environmental considerations are integrated into economic and development plans, programmes and processes. Among the fundamental principles of

environmental governance are principles that foster access to information; access to justice to the community which is liable to be affected and governance based on rule of law. Access to information, particularly to impoverished and marginalised communities, which populate our rural land scape is of vital importance. Communities must have access to all information in order to be satisfied that a proposed project meets standards of safety; that the site upon which the project is to be located is environmentally conducive and that the project will not result in a destruction of the natural habitat. Denial of information is the surest way to deprive rural communities of human rights and leads to a sense of alienation. Access to information is a source empowerment. Participatory decision making must hence be an ingredient of environmental governance in a true sense of the term. Merely observing the forms of participation without the substance is to negate fundamental human rights. When expert bodies are conferred with statutory duties which are envisaged in the public interest, particularly having regard to the need to protect sensitive interests such as those of the environment, it is necessary that those duties must be performed scrupulously keeping in mind the safeguards which are provided by enacting legal provisions. In the present case, the SEAC evidently completed its task within a day of the presentation of the final EIA report. In doing so the SEAC evidently failed to take into consideration the mandate of the notification dated 14 September 2006 and the considerations which are regarded by the notification as relevant and germane to the discharge of its duties. The final resolution of the SEAC, recommending the grant of approval on 16 April 2010 was to the following effect –

“Decision : The project proponent has got the EIA completed and conducted public hearing. Copies of the EIA and public hearing have

been submitted. The main findings of the EIA were explained. It was pointed out that the concerns expressed at the time of the public hearing are being complied with. The project proponent explained that they eventually propose to put up thermal plants for a total capacity of around 2500 MW. They stated that they are adopting the latest and clean technology. They explained the various steps which will be taken up to ensure all environmental safeguards.

It was decided to recommend the proposal for grant of prior environment clearance subject to the project proponent complying with the following:

- (i) The projected level of NOx and the simulation model to work out the pollution level after commencement of the plant should be cross checked from a reputed organization like NEERI or IIT and their report submitted. If their reports indicate the need for any mitigating steps, the same should be worked out, and indicated.
- (ii) The EIA carried out is rapid for a short period, since the project is proposed to be expanded to a large magnitude, a comprehensive study should be initiated to avoid delay in future."

26. The first part of the decision of the SEAC contains merely a record of the fact that the EIA was completed and that a public hearing was conducted. The SEAC notes that the main findings of the EIA were explained. The SEAC records the submission of the project proponent that (i) the concerns that were expressed at the time of the public hearing were complied with; (ii) the project proponent would be adopting the latest and clean technology; and (iii) steps that would be taken to ensure environmental safeguards were explained. There is no analysis by the SEAC of the environmental concerns; no analysis of the impact of the project on the environment and no analysis of the steps that would be taken to address environmental effects or damage. None of the reasons would indicate an independent applicant of mind. The SEAC recommended the grant of an environmental clearance subject to the Sixth Respondent getting the

project level of NO_x crosschecked from a reputed organization and if mitigating steps were required, to adopt those steps. The SEAC also took note of the fact that the EIA which had been carried out was “rapid”; and “for a short period”. In that context, the SEAC noted that since the project was proposed to be expanded, a comprehensive study should be initiated to avoid delay in the future. The concern of the SEAC appears to have been more to avoid a delay in the project than that of a need to protect and preserve the environment. When the notification requires a screening, scoping and appraisal of the project, by an expert body such as the SEAC, the record must indicate a due and proper application of mind by the SEAC to all aspects of environmental concern. This would include – (i) Environmental studies carried out to assess the nature of the existing environment and the impact of the proposed project on the environment; (ii) The consequences of the project on issues such as water and air pollution; (iii) The impact of the project on the existing natural resources and the extent of the use and depletion of natural resources; (iv) Whether an ecological sensitive area would be affected and if so, the nature and effect thereof; (v) The impact of the project on concerns such as biodiversity; (vi) The nature of the technology that is sought to be put in place; and (vii) The safeguards that must be introduced in order to ensure that the adverse impacts of the project are contained within prescribed statutory requirements. This list of factors, we wish to clarify, is not exhaustive. But the important point to be noted is that the SEAC and the SEIAA are important instruments of ensuring regulatory compliance and environmental governance in accordance with law. The decision making process of those authorities besides being transparent must result in a reasoned conclusion which is reflective of a due application of mind to the diverse



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concerns arising from a project such as the present. The mere fact that a body is comprised of experts is not sufficient a safeguard to ensure that the conclusion of its deliberations is just and proper. That safeguard, particularly for the wider community, must be reflected in the manner in which the authority conducts its process and in the outcome of its process. In matters of environmental governance the only available safeguard for the community at large is that the process which the authority follows must adhere to fair and transparent principles established by law and that the reasons which emanate from the public body must be suggestive of the decision maker having taken into consideration all relevant aspects and having borne in mind the need to preserve and protect the environment. The balance which is drawn by the authority between the need for development on the one hand and the protection of the environment on the other, must be reflected in its formulation. In the present case, the entirety of the appraisal of the SEAC is contained in the extract which we have set out above. That in our view, does not satisfy the requirements of a transparent, accountable and responsive decision making process. These three elements, in our view, are key requirements of a process which is fair and in accordance with Article 14 of the Constitution.

27. Environmental protection is often pitched against the demands of economic development. While dealing with those conflicts, policy makers and judicial bodies across the world have applied the concept of sustainable development. The 1987 Report of the World Commission on Environment and Development (Brundtland Report) defined Sustainable Development as "Development that meets the needs of the present without compromising the

ability of the future generations to meet their own needs". This responsibility was enunciated in 1972 by the Stockholm Convention to which India was a party. In 1992 the Rio Declaration on Environment and Development, to which also India is a party, adopted the notion of sustainable development.

28. Courts in India have accorded a constitutional position to sustainable development, sourcing the doctrine from Articles 21, 48, 48A and 51A of the Constitution. Directions have been issued from time to time to foster an effective administrative set up for preventing environmental degradation resulting from developmental activities (*M. C. Mehta v. Union of India and Ors.*¹). In matters involving environment and ecology, the doctrine of Public Trust enjoins the Government to protect resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. The heart of the public trust doctrine is that it imposes limits and obligations upon government agencies and their administrators on behalf of all the people and especially future generations. Professor Joseph L. Sax in his classic article, "The Public Trust Doctrine in Natural Resources Law: Effective Judicial Intervention"², indicates that the public trust doctrine, of all concepts known to law, constitutes the best practical and philosophical premise and legal tool for protecting public rights and for protecting and managing resources, ecological values or objects held in trust. The doctrine, in its present form, was incorporated as a part of Indian law by the Supreme Court in *M. C. Mehta v. Kamal Nath*³ and also in *M.I. Builders v. Radhey Shyam Sahu*⁴.

1 (2009) 6 SCC 142.

2 Michigan Law Review, Vol.68 No.3 (Jan.1970) PP 471- 566

3 (1997) 1 SCC 388

4 [1999] 3 SCR 1066

29. The precautionary principle and the polluter-pays principle were also recognized in **M. C. Mehta** where the Court held that the principle of sustainable development involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. The Supreme Court held that the State government committed a patent breach of public trust by leasing ecologically fragile land for a Motel, and ordered compensation by way of costs for the restitution of the environment and ecology of the area. In **Vellore Citizens Welfare Forum v. UOI**⁵ the Supreme Court ordered the closure of all the tanneries in certain districts which did not invest in effluent treatment plants and held that "Environmental measures by the central government and the statutory authorities must anticipate prevent and attack the causes of environmental degradation and where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

30. In **Intellectuals Forum, Tirupathi v. State of A.P. & Ors.**⁶, the Supreme Court held that the government was bound to protect historical tanks in view of the concept of 'sustainable development' and the 'public trust doctrine'. The principle of 'Inter-Generational Equity' was also given legal status, which was then reiterated in several cases including **A.P. Pollution Control Board v. Prof. M.V. Nayudu and Ors.**⁷ where it was held that the State cannot be allowed to commit an act or omission which will infringe the right of the community and to alienate property to any other person or body. The fact that a party has spent

51996) 5 SCC 647
6AIR 2006 SC 1352
71999] 1 SCR 235


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money on developing land was held to be immaterial.

31. In ***T. N. Godavaram Thirumulpad v. Union of India (UOI) and Ors.***⁸, the Supreme Court held that adherence to the principle of Sustainable Development is a constitutional requirement, and that it is the duty of the State to devise and implement a coherent and co-ordinated programme to meet its obligation of sustainable development based on inter-generational equity.

32. In ***Bombay Dyeing & Mfg. Co. Ltd. v. Bombay Environmental Action Group and Ors.***⁹, the Supreme Court held that while the need to protect the environment is a priority, a balance has to be drawn with the need to promote development:

“...The harmonization of the two needs has led to the concept of sustainable development, so much so that it has become the most significant and focal point of environmental legislation and judicial decisions relating to the same. Sustainable development, simply put, is a process in which development can be sustained over generations. Making the concept of sustainable development operational for public policies raises important challenges that involve complex synergies and trade-offs.”

33. An intention to develop is not sufficient to sanction the destruction of local ecological resources. In applying the principle of sustainable development, there must be a balance between developmental needs which project proponents assert, and environmental damage and degradation, that communities seriously apprehend.

82008) 2 SCC 222
9AIR 2006 SC 1489


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34. During the course of the hearing of these proceedings, the AGP appearing on behalf of the SEIAA and SEAC stated before the Court that the SEAC, was not informed, when it took its decision on 16 April 2010 of the pendency of the application by the Sixth Respondent before the MOEF for the expansion of its project. On the issue of whether the SEAC had jurisdiction to entertain the application, we must at the outset indicate that a Division Bench of this Court presided over by the Learned Chief Justice has come to the conclusion in its judgment dated 18 October 2011 that the SEAC did have jurisdiction to entertain the application. Having regard to that finding, which is contained in the judgment of the Division Bench dated 18 October 2011, and which has been reiterated subsequently by the same Bench in its order dated 15 November 2011, it would not be consistent with judicial discipline for this Court to re-examine the same issue afresh. The judgment of the Division Bench dated 18 October 2011 arose out of an order of the Judicial Magistrate, First Class issuing process in a criminal complaint instituted by the petitioner alleging a violation of the provisions of Sections 15 and 17 of the Environment (Protection) Act 1986. The complaint proceeded on the basis that the SEAC had no jurisdiction to entertain the application for environmental clearance, once the Sixth Respondent had moved the MOEF with a proposal for expansion. The J.M.F.C. issued process and the order issuing process against the officials of the State Government was challenged by the State in writ proceedings before this Court. The Division Bench, in its judgment dated 18 October 2011 came to the conclusion that Section 17 of the Environment (Protection) Act 1986 could have no application to the members of the SEAC or the SEIAA, when they acted as authorities under the notification dated 14 September 2006. Apart from this, the


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Division Bench took note of the fact that the Central Government had closed the file regarding the proposal of the Sixth Respondent for the expansion of its project. In that view of the matter, the Division Bench quashed and set aside the order of the Magistrate issuing process. This order was construed subsequently by the Division Bench in a further order dated 15 November 2011 in which the Court held that the challenge to jurisdiction of the SEAC and SEIAA had already been negated in the judgment dated 18 October 2011. These orders of the Division Bench are the subject matter of a challenge before the Supreme Court where Special Leave Petitions are pending. As another Division Bench of the same Court, discipline requires us not to take any view at variance with the judgment of the Division Bench, so long as it continues to hold the field.

35. In our view, the issue must be looked at from a slightly different perspective, quite apart from the issue of jurisdiction. As the record before the Court would indicate, the Sixth Respondent moved the Union Government with an application for expansion of its project capacity to the extent of 2150 MWs on 13 January 2010 / 15 March 2010. The AGP stated before us that on 16 April 2010 when the SEAC made its recommendations for the grant of an environmental clearance, it was not in knowledge of the fact that the MOEF had already been moved by the Sixth Respondent for the grant of clearance for an expanded capacity. The minutes of the decision of the SEAC record that the project proponent explained that it eventually proposes to put up a thermal plant for a total capacity of around 2500 MWs. In response to this the SEAC stated that since the EIA which had been carried out was 'rapid' and 'for a short period' and since the project was proposed to be expanded to a large magnitude, a

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comprehensive study should be initiated, "to avoid delay in future". In our view, the SEAC ought to have been informed by the Sixth Respondent, when it proceeded to take its decision on 16 April 2010, of the fact that at that time an application which had been filed by the Sixth Respondent for a further expansion of its capacity to the extent of 2150 MWs was pending before the MOEF. The circular which was issued by the MOEF on 22 March 2010 took note of the fact that where a proposal for expansion was submitted without a prior environmental clearance having been granted for the original project, a fresh proposal should be submitted so as to enable a holistic appraisal of the entire project from the environmental perspective. The rationale for the circular is that different authorities should not consider piecemeal, requests for environmental clearance but an overall assessment should be made by MOEF of all the ramifications. If the SEAC were to be informed of the pendency of an application before the Central Government at that stage, that in our view, was a material circumstance which would have had some bearing on the outcome of the proceedings before the SEAC. We clarify once again at the cost of repetition that this is not an issue which pertains to the jurisdiction of the SEAC (which as noted above is concluded by the judgment of the Division Bench), but about the conduct and fairness of the approach of the project proponent in the present case. The MOEF, by its letter dated 24 March 2011 clarified that the project proponent had with effect from 7 July 2010 ceased to pursue its proposal for expansion. The clear intendment of that communication is that on the date on which the SEAC took its decision on 16 April 2010, there was a live proposal before the Union Government which was pending consideration. The failure to inform the SEAC of the existence of such a proposal is a matter which reflects on the candor with



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which the proceeding was conducted before the SEAC and is, in our view, indicative of a circumstance which vitiates the decision making process.

36. Clause 8(vi) of MOEF notification, dated 14th September 2006 provides thus :

“Deliberate Concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.”

In this case, the Sixth Respondent failed to disclose to the SEAC the application made to the MOEF for an additional 2150MW. Concealment of such information, material to appraisal and to a decision on the application would have the effect of rendering the application liable for rejection.

37. Insofar as the SEIAA is concerned, it is evident from the notification that the recommendations of the SEAC constitute the basis and foundation of the proceedings before the SEIAA. Now at this stage, it will be necessary for the Court to advert to the record of the decision making process before the SEIAA. The proceedings before the SEIAA took place initially on 9 July 2010 when the authority decided to consider the proposal after the submission of certain documents, among them being compliance of the recommendations submitted by the SEAC. Thereafter on 7 August 2010, the Sixth Respondent submitted details of an air pollution study carried out by I.I.T. Chennai as recommended by

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the SEAC. On 26 August 2010 the SEIAA noted that the Sixth Respondent had simultaneously approached the MOEF for getting environmental clearance for its expansion which had not been initiated. After considering the report of I.I.T. Chennai, the authority decided to accord environmental clearance subject to various conditions, among them being a requirement that a copy of the order for the installation of machinery at site shall be furnished. On 28 March 2011 the SEIAA decided to refer the case to the MOEF for a clarification with regard to its circular dated 22 March 2010. On 4/5 August 2011, the SEIAA was of the view that since proceedings were pending before the Court, no question arose on issuing a clearance at that stage. On 23/24 November 2011 the SEIAA was informed of the decision of this Court in Writ Petition 8581 of 2011. The authority recorded that it needed time to scrutinize the documents submitted by the project proponent including comments in respect of the objections which were raised against the project. The proceedings were then adjourned to 8/9 December 2011. The notice of the hearing on 8/9 December 2011 was furnished to the petitioner at 9.00 p.m. on 8 December 2011. The petitioner submitted a reply to the SEIAA on 9 December 2011 seeking an adjournment of the proceedings. The reply was communicated through an email at 10.45 a.m. on 9 December 2011. The SEIAA, however, proceeded with the hearing on 9 December 2011 in the absence of the Petitioner. The decision of the SEIAA records that taking into account the directions of this Court, the submission of information by the project proponent, the contents of the EIA report, a public hearing report and a deed of commitment filed by the project proponent, the authority had decided to accord approval for the grant of an environment clearance. Evidently, the final decision was arrived at in the absence of the petitioner who had submitted a detailed note


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of objections on 28 November 2011. We find that the decision which has been arrived at by the SEIAA is unsustainable for several reasons. Firstly, the recommendation of the SEAC was to form the basis and foundation of the ultimate grant of approval by the SEIAA. Once the underlying decision of the SEAC is found to be flawed, the decision of the SEIAA must stand vitiated. Secondly, the order of the SEIAA does not reflect an application of mind to the environmental issues and concerns emanating from the project. Thirdly, even at its meeting on 23/24 November 2011 the SEIAA had considered it appropriate to defer a final decision since it required time to scrutinize relevant documents including comments in respect of various objections raised against the project. For this purpose a meeting was convened on 8/9 December 2011. The record does not indicate whether those concerns were duly allayed. In any event, a decision was taken in the absence of the petitioner who had communicated that the notice of the hearing was received only the previous night and that it was not possible for the petitioner to attend the hearing the next morning due to a court proceeding.

38. The foundation of the submission of the Sixth Respondent that it has received deemed permission for the project with effect from 3 June 2010, is on the basis of the recommendations that were issued by the SEAC on 16 April 2010. The recommendations of the SEAC have been held to be invalid and contrary to law. The basis on which the submission of deemed permission has been urged would have no foundation whatsoever. The Court must also express its concern about the manner in which both the SEAC and SEIAA have proceeded to grant clearances without application of mind to the question as to



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whether, in breach of the specific conditions of the notification dated 14 September 2006, the Sixth Respondent had carried out development work at site without a prior environmental clearance. As we have noted earlier, a notice to show cause has already been issued to the Sixth Respondent, which has yet to be adjudicated upon. The Petitioners have repeatedly drawn attention to their grievance that even without an environmental clearance, the Sixth Respondent has proceeded with work at the site in breach of the notification dated 14 September 2006. The issue as to whether an applicant for environmental clearance has acted in breach of the condition which prohibits work prior to the receipt of environmental clearance is a material consideration in determining whether environmental clearance should be granted. A project proponent who seeks an environmental clearance under the law must demonstrably act in accordance with law. There is a serious allegation of a breach by the Sixth Respondent which resulted in the issuance of a notice to show cause by MPCB. That issue cannot be disassociated from the grant of an environmental clearance and a clearance could not have been granted without a definitive conclusion, arrived at in accordance with the principles of natural justice, on the issue of breach.

39. In the circumstances, we are of the view that the orders of the SEAC dated 29 October 2009 and 16 April 2010 and the order of the SEIAA dated 22 February 2012 would have to be quashed and set aside. We order accordingly. We remand the proceedings in consequence back to the SEAC for a fresh decision on the application submitted by the Sixth Respondent in accordance with law. We also clarify that we have not entered a finding of fact on the

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allegation that the Sixth Respondent has committed a violation of the notification dated 14 September 2006 by proceeding ahead with the work of development even before the receipt of environmental clearance. We leave that aspect open to be adjudicated upon by the competent authority after furnishing to the Sixth Respondent and to the Petitioner an opportunity of being heard.

We direct that the SEAC shall conclude the exercise expeditiously.

Rule is made absolute in the aforesaid terms.

There shall be no order as to costs.

In view of the disposal of the petition, Civil Applications 143 of 2010 and 87 of 2012 are disposed of.

(Dr. D.Y. Chandrachud, J.)

(R.D.Dhanuka, J.)


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in the special leave petitions is modified to the extent indicated above.

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The special leave petitions stand disposed of.

.....J
(Aftab Alam)

.....J
(Ranjana Prakash Desai)

New Delhi;
December 10, 2012.

ITEM NO.47 COURT NO.5 SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).20961-20962/2012

(From the judgement and order dated 28/06/2012 in PIL No.115/2010 dated 29/06/2012 in PIL No.115/2010 of The HIGH COURT OF BOMBAY)

HINDUSTAN ELECT.GEN.CO.LTD. Petitioner(s)

VERSUS

GRAM PANCHAYAT NAVLAKH UMBRE & ORS. Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment,permission to file synopsis and list of dates,permission to file additional documents and prayer for interim relief and office report)

Date: 10/12/2012 These Petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s) Mr. Ashok Desai, Sr. Adv.
Mr. Shiv Kumar Suri,Adv.

For Respondent(s) Mr. Raju Ramachandran, Sr. Adv.
Mr. P.S. Narasimaha, Sr. Adv.
Mr. K. Sultan Singh, Adv.
Mr. V. Hari Pillai, Adv.
Mr. K. Himmat Singh, Adv.
Mr. Susha Unni, Adv.
Mr. Samar Vijay Singh, Adv.


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Mr. Naren Nath Sarvaria, Adv.
Mr. Jagjit Singh Chhabra, Adv.

Mr. T.R. Andhyarujina, Sr. Adv.
Mr. Sanjay Kharde, Adv.
Mr. Preshit Surshe, Adv.

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UPON hearing counsel the Court made the following
O R D E R

The special leave petitions stand disposed of in terms of the
signed order.

| (Sanjay Kumar) Court Master | (Sneh Bala Mehra) |
| Court Master |

(Signed order is placed on the file)


TRUE COPY



abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

*Proof of Service***Hon'ble National Green Tribunal (Southern Zone) Sitting at Chennai- Service of Complete set of Rejoinder affidavit**

1 message

120

abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

28 October 2020 at 22:21

To: secy-moef@nic.in

To,
Ministry of Environment, Forests and Climate Change,
Union of India, Indira Paryavaran Bhavan,
Jor Bagh, NEW DELHI- 110003.
Represented by its Secretary.
email: secy-moef@nic.in
Ph: 011- 24695262

Respected Sir/Madam,

Sub: Before the Hon'ble National Green Tribunal, (Southern Zone), Sitting At Chennai.
Yelahanka Puttenahalli Lake and Bird Conservation Trust (Redg.) v/s. Ministry of Environment
and Forest and Climate Change, Union of India & Ors.
Appeal No. 14 of 2020

That in the above mentioned matter the Advocate for the Appellant is filing the Rejoinder Affidavit in the above mentioned Appeal.

That you are the Respondent No. 1 herein and kindly find attached herewith the said Rejoinder-affidavit.

Kindly acknowledge the receipt of the same.

Thanking you,
Yours faithfully,
Abdul Azeem Kalebudde
Advocate-on-Record
Supreme Court of India
Advocate for the Appellant
Flat No. 1402, Tower No. 7, 14th Floor,
Sunworld Vanalika, Sector 107,
NOIDA-201301. (Delhi NCR)
Ph: 9899474399

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abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

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Hon'ble National Green Tribunal (Southern Zone) Sitting at Chennai- Service of Complete set of Rejoinder affidavit

1 message

abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

28 October 2020 at 22:18

To: secyforest-fee@karnataka.gov.in

To,
Karnataka Department of Environment, Forest and Ecology,
Government of Karnataka, Room No. 708, Gate 2,
Dr. Ambedkar Veedhi, M. S. Building,
Bengaluru- 560001 KARNATAKA
Represented by its Principal Secretary
email: secyforest-fee@karnataka.gov.in
Ph: 080- 22254434

Respected Sir/Madam,

Sub: Before the Hon'ble National Green Tribunal, (Southern Zone), Sitting At Chennai.
Yelahanka Puttenahalli Lake and Bird Conservation Trust (Redg.) v/s. Ministry of Environment
and Forest and Climate Change, Union of India & Ors.
Appeal No. 14 of 2020

That in the above mentioned matter the Advocate for the Appellant is filing the Rejoinder Affidavit in the above mentioned Appeal.

That you are the Respondent No. 3 herein and kindly find attached herewith the said Rejoinder-affidavit.

Kindly acknowledge the receipt of the same.

Thanking you,
Yours faithfully,
Abdul Azeem Kalebudde
Advocate-on-Record
Supreme Court of India
Advocate for the Appellant
Flat No. 1402, Tower No. 7, 14th Floor,
Sunworld Vanalika, Sector 107,
NOIDA-201301. (Delhi NCR)
Ph: 9899474399

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abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

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Hon'ble National Green Tribunal (Southern Zone) Sitting at Chennai- Service of Complete set of Rejoinder affidavit

1 message

abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

28 October 2020 at 22:28

To: msseiaakarnataka@gmail.com

To,
Karnataka Department of Environment, Forest and Ecology,
Government of Karnataka, Room No. 708, Gate 2,
Dr. Ambedkar Veedhi, M. S. Building,
Bengaluru- 560001 KARNATAKA
Represented by its Principal Secretary
email: secyforest-fee@karnataka.gov.in
Ph: 080- 22254434

Respected Sir/Madam,

Sub: Before the Hon'ble National Green Tribunal, (Southern Zone), Sitting At Chennai.
Yelahanka Puttenahalli Lake and Bird Conservation Trust (Redg.) v/s. Ministry of Environment
and Forest and Climate Change, Union of India & Ors.
Appeal No. 14 of 2020

That in the above mentioned matter the Advocate for the Appellant is filing the Rejoinder Affidavit in the above mentioned Appeal.

That you are the Respondent No. 3 herein and kindly find attached herewith the said Rejoinder-affidavit.

Kindly acknowledge the receipt of the same.

Thanking you,
Yours faithfully,
Abdul Azeem Kalebudde
Advocate-on-Record
Supreme Court of India
Advocate for the Appellant
Flat No. 1402, Tower No. 7, 14th Floor,
Sunworld Vanalika, Sector 107,
NOIDA-201301. (Delhi NCR)
Ph: 9899474399

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abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

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Hon'ble National Green Tribunal (Southern Zone) Sitting at Chennai- Service of Complete set of Rejoinder affidavit

1 message

abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

28 October 2020 at 22:26

To: Tanya John <tanya@pragatilaw.in>

To,
M/s. Pragati Law Chambers
Advocate for M/s. Karnataka Power Corporation Ltd.
Respondent No. 4
5A, Bharat Apartments | 44/1, Fairfield Layout
Race Course Road, Bangalore - 560 001
Ph: 9742412380
email: tanya@pragatilaw.in

Respected Sir/Madam,

Sub: Before the Hon'ble National Green Tribunal, (Southern Zone), Sitting At Chennai.
Yelahanka Puttenahalli Lake and Bird Conservation Trust (Redg.) v/s. Ministry of Environment
and Forest and Climate Change, Union of India & Ors.
Appeal No. 14 of 2020

That in the above mentioned matter the Advocate for the Appellant is filing the Rejoinder Affidavit in the above mentioned Appeal.

That you are the Respondent No. 4 herein and kindly find attached herewith the said Rejoinder-affidavit.

Kindly acknowledge the receipt of the same.

Thanking you,
Yours faithfully,
Abdul Azeem Kalebudde
Advocate-on-Record
Supreme Court of India
Advocate for the Appellant
Flat No. 1402, Tower No. 7, 14th Floor,
Sunworld Vanalika, Sector 107,
NOIDA-201301. (Delhi NCR)
Ph: 9899474399

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abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

Hon'ble National Green Tribunal (Southern Zone) Sitting at Chennai- Service of Complete set of Rejoinder affidavit

1 message

abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

28 October 2020 at 22:22

To: contactusbbmp@gmail.com

To,
Bruhat Bengaluru Mahanagara Palike
Hudson Circle, Bengaluru- 560002.
KARNATAKA
Represented by its Commissioner.
Email: contactusbbmp@gmail.com
Ph: 080-22660000

Respected Sir/Madam,

Sub: Before the Hon'ble National Green Tribunal, (Southern Zone), Sitting At Chennai.
Yelahanka Puttenahalli Lake and Bird Conservation Trust (Redg.) v/s. Ministry of Environment
and Forest and Climate Change, Union of India & Ors.
Appeal No. 14 of 2020

That in the above mentioned matter the Advocate for the Appellant is filing the Rejoinder Affidavit in the above mentioned Appeal.

That you are the Respondent No. 5 herein and kindly find attached herewith the said Rejoinder-affidavit.

Kindly acknowledge the receipt of the same.

Thanking you,
Yours faithfully,
Abdul Azeem Kalebudde
Advocate-on-Record
Supreme Court of India
Advocate for the Appellant
Flat No. 1402, Tower No. 7, 14th Floor,
Sunworld Vanalika, Sector 107,
NOIDA-201301. (Delhi NCR)
Ph: 9899474399

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abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

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Hon'ble National Green Tribunal (Southern Zone) Sitting at Chennai- Service of Complete set of Rejoinder affidavit

1 message

abdul azeem Kalebudde <kalebudde.azeem@gmail.com>

28 October 2020 at 22:24

To: ceolda2002@gmail.com

To,
Karnataka Lake Conservation and Development Authority
2nd Floor, Parisara Bhavan,
#49, Church Street, Bengaluru - 560 001
KARNATAKA
Represented by its Chief Executive Officer.
E-mail: ceolda2002@gmail.com
Phone : 080-25590098

Respected Sir/Madam,

Sub: Before the Hon'ble National Green Tribunal, (Southern Zone), Sitting At Chennai.
Yelahanka Puttenahalli Lake and Bird Conservation Trust (Redg.) v/s. Ministry of Environment
and Forest and Climate Change, Union of India & Ors.
Appeal No. 14 of 2020

That in the above mentioned matter the Advocate for the Appellant is filing the Rejoinder Affidavit in the above mentioned Appeal.

That you are the Respondent No. 6 herein and kindly find attached herewith the said Rejoinder-affidavit.

Kindly acknowledge the receipt of the same.

Thanking you,
Yours faithfully,
Abdul Azeem Kalebudde
Advocate-on-Record
Supreme Court of India
Advocate for the Appellant
Flat No. 1402, Tower No. 7, 14th Floor,
Sunworld Vanalika, Sector 107,
NOIDA-201301. (Delhi NCR)
Ph: 9899474399

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