

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH AT KOLKATA
APPEAL NO. 24 OF 2022**

IN THE MATTER OF:

Satayanarayan Rao

.....Appellant

Versus

Union of India & Ors.

..... Respondents

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Drawn on: 03.05.2024

Filed on: 04.05.2024

Place: Kolkata

DRAWN BY:


Sangay Kazi Thupden, Mansi Bachani & Gitanjali Sanyal
Advocates for the Respondent No. 2
29, LGF, Presidential Estate,
Nizamuddin East, New Delhi -110013
Email: eldflegal@gmail.com +91- 8851323704

SETTLED BY:

Sanjay Upadhyay
Senior Advocate

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APPEAL NO. 24 OF 2022

IN THE MATTER OF:

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.....Appellant

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**SUR REJOINDER ON BEHALF OF RESPONDENT NO.2, M/S
VEDANTA LTD.**

MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal is presently seized of the above-mentioned Appeal No. 24/2022 filed by the Appellant challenging, albeit wrongly and without any basis in law, the grant of the Environment Clearance dated 05.05.2022 for expansion of the Aluminum Smelter Plant of Respondent No.2, M/s Vedanta Ltd., from 16 LTPA to 18 LTPA at Brundamal, Jharsuguda, Odisha.
2. That the Respondent No. 2, M/s Vedanta Ltd. has filed its Reply on 12.10.2023 clarifying that the Environment Clearance dated 05.05.2022 was granted after a detailed scrutiny by the Expert Appraisal Committee in five meetings, over a period of almost one and half years. The contents of the same are being relied on here and are not being reiterated for the sake of brevity.
3. That on 13.04.2024, two days prior to the final hearing of the present matter, the Appellant filed their Rejoinder submitting new facts and grounds of challenge to the EC dated 05.02.2022 of the answering Respondent, which were not part of the Appeal and *inter alia* included -
 - i. Bona fides of Respondent No. 9, M/s Vedanta Ltd.
 - ii. Conduct of the Public Hearing in alleged non-compliance of the EIA Notification, 2006

- iii. Challenge to the revised EIA Report for being non-compliant with Para 7(iv) of the EIA Notification, 2006

The above-mentioned submissions were brought before the notice of this Hon'ble Tribunal on the last date of hearing on 15.04.2024. It is a well settled principle of law that no new facts can be included in the Rejoinder without amendment of the original application/appeal. Rule 16 of the National Green Tribunal Rules 2011 also specifies in clause (7) that parties may be permitted to amend the pleadings in the same manner as provided under Order 6, Rule 17 of the Civil Procedure Code, 1908. However, the Appellant without seeking the said permission has attempted to submit new facts and grounds of challenge to the EC dated 05.05.2022 in its Rejoinder without compliance with Rule 16 of the NGT Rules, 2011. This itself is a ground alone to reject all the new submissions made where an attempt is being made to give a new color to the case which is not permissible and therefore violates the principles of Order 6 Rule 17 of CPC. In view of the above, the present Sur Rejoinder is being filed by the Answering Respondent.

4. That at the outset, it is pertinent to note that the Rejoinder has failed to highlight any discrepancies or defects, on merits, in the revised Environment Impact Assessment Report which would lead to any adverse impact on the environment, which has been the main grievance of the Appellant in the Appeal. Moreover, the Appellant, in the absence of any issue/grievance in the EIA Report has challenged the EC dated 05.05.2022 on the ground that the revised report should have been submitted for public hearing once again, among other issues. Accordingly, the answering Respondent will be submitting its objections under the following six heads –

- I. Appellant does not have locus standi for filing the present Appeal

II. Suppression of Facts by the Appellant

III. Conduct of Public Hearing in accordance with the law

IV. There is no requirement in law to submit the revised EIA Report again and again for Public Hearing

V. EC for the second expansion has been submitted after detailed scrutiny by the EAC and in compliance with the EIA Notification, 2006

VI. No encroachment of forest land or dumping of fly ash on forest land

That any contention which has not been specifically responded in the present Sur Rejoinder are herewith denied and are not to be construed as having been accepted by the answering Respondent as if traversed seriatim.

I. Appellant does not have locus standi for filing the present Appeal

5. That the Appellant in its Rejoinder has given a detailed history of the constitution of this Hon'ble Tribunal and relied upon the case of Sridevi Datla v. Union of India to state that the role of this Hon'ble Tribunal is inquisitorial and therefore the appeal cannot be dismissed without going into its merit. It is pertinent to note that unlike a constitutional court, this Hon'ble Tribunal is bound to operate in accordance with the powers and jurisdiction as conferred by the National Green Tribunal Act, 2010 and the Rules issued thereunder. The Hon'ble Supreme Court in the case of Rajeev Suri v. DDA, 2021 SCC OnLine SC 7 has clarified that – “...NGT is not a plenary body with inherent powers to address concerns of a residuary character. It is a statutory body with limited mandate over environmental matters as and when they arise for its consideration. In a cause before it, NGT cannot directly go on to adjudicate on concerns of violation of fundamental rights and once the contours of a subject matter traverse the scope of appeal from a grant of EC, the merits

review by tribunal cannot traverse beyond the scope of jurisdiction vested in it by the statute”

Thus, specifically with respect to an Appeal under Section 16 of the National Green Tribunal Act, 2010, this Hon’ble Tribunal must ensure that all the ingredients of the Appeal, including Section 18 of the NGT Act, 2010 are duly satisfied for proceeding further with the adjudication of the issues raised therein.

That further, the reliance on Sridevi Datla by the Appellant is misplaced as Sridevi Datla, the Appellant in the Supreme Court, had raised the grievance of being directly impacted by the project and sought condonation for delay due to the time spent on seeking appropriate legal advice. However, in the present case, the public directly impacted by the Project has not raised any grievances against the expansion as is evident from the minutes of the public hearing annexed at Annexure A3, Page 57 of the Appeal. Moreover, the claim of the Appellant of being a public spirited person, is without any merit as the Appellant failed to attend the public hearing despite being aware of the date of the public hearing. It is now at a belated stage the Appellant through the present Appeal, is attempting to enforce the said right, for reasons best known to them, having failed in their Petition before the Hon’ble High Court of Odisha. That further, the Appellant has claimed that no material pertaining to the credentials of the Appellant herein has been placed on record by the answering Respondent for relying upon the ratio decidendi in *Uttar Pradesh & Ors. v. Uday Education and Welfare Trust and Ors.* (2022 SCC OnLine SC 1469). It is reiterated that the conduct of the Appellant, with respect to their failure to categorically put on record the pleadings and orders of the Odisha High in W.P. (C) No. 24789/2020 or the Interlocutory Application by the Appellant’s spouse in Writ Appeal No. 711/2021, clearly highlights that the

bonafide of the Appellant is questionable and the Appellant is attempting to raise similar issues in different forums. A clear case of forum shopping which is impermissible in law. Additionally, it is also pertinent to highlight that a deliberate attempt has been made to mislead this Hon'ble Tribunal by giving examples of cases which are not relevant to the present appeal cannot be a ground in law for the present appeal.

6. That further, the Appellant has objected to the reliance on the case of Satyabrata Sanjeev Kumar Mohanta v. MoF&CC & Ors by stating that the same does not record reliance upon the abovementioned Judgment of Uttar Pradesh & Ors. v. Uday Education and Welfare Trust and Ors. (2022 SCC OnLine SC 1469). It is pertinent to note that the said Judgement has been put on record to highlight how this Hon'ble Tribunal has dealt with forum shopping in the past and that the conduct of the present Appellant is similar to that of the Appellant in the abovementioned matter. The objection to the reliance on Anand Kumar Jha v. Union of India and Ors of the Appellant is therefore without any merit. The attitude of the Appellant has been so lackadaisical that they did not even bother to participate in the public hearing for the project against which they have been raising grievances. This Hon'ble Tribunal may take strict note of the same and this is ground enough for dismissal of the present Appeal *in limine*.

II. Suppression of Facts by the Appellant

7. That it is the submission of the answering Respondent that although the Appellant claims to have approached this Hon'ble Tribunal with the right intentions and without any suppression of facts, on the other hand the Appellant has conveniently failed to respond to the filing of the Interlocutory Application by the spouse of the Appellant in Writ Appeal No. 711/2021. It

is also pertinent to note that the said Writ Appeal was filed against the Order dated 09.10.2020 of the Orissa High Court in WP(C) No. 24789 of 2020 and WP(C) No. 24790 of 2020 which had dismissed the challenge to the public hearing of the project of the answering Respondent. Thus, the rationale for mentioning the said Writ Petitions - WP(C) No. 24789 of 2020 and WP(C) No. 24790 of 2020, was to apprise this Hon'ble Tribunal that the Appellant was part of the proceedings challenging the public hearing from 2020 and has been challenging the same using different grounds from the past four years, in three different proceedings before the High Court, the Supreme Court and now before this Hon'ble Tribunal.

III. The public hearing was conducted in accordance with the law

8. That it is reiterated that the issue of whether the public hearing was conducted in accordance with the law has already been adjudicated upon by the Hon'ble High Court of Odisha in three different Writ Petitions. It is thus clear that the said issue is settled and the Appellant is barred by Res Judicata to raise the same again before this Hon'ble Tribunal. For the convenience of this Hon'ble Tribunal, the Appellant is re-submitting the list of petitions, in chronological order which had challenged the public hearing dated 30.09.2020 for the project of the answering Respondent –

- That the answering Respondent in pursuance of Terms of Reference dated 20.12.2017, engaged M/s Vimta Labs as its environmental consultant for preparing the EIA Report for the proposed expansion of its Aluminium Plant. The Draft Report was submitted for public hearing on 07.02.2020.
- That thereafter, post the consultation between the District Magistrate and the State Pollution Control Board, the public hearing was scheduled to be held at Government Upper Primary School, Kurebaga , Jharsuguda on

30.09.2020. Public Notices for the same were also issued on 27.08.2020 in Odia in a Newspaper called 'Samaj' as well as in Orissa Post and an English Newspaper.

- That however, in the meantime, one W.P.(C)No. 24669 of 2020 was filed by organisation of the Appellant herein, Anchalik Parivesh Surakhya Sangh, seeking a stay on the proposed date for public hearing of the Project of the answering Respondent. On 28.08.2020, the Hon'ble Court dismissed the Writ Petition and granted liberty to the Appellant as well as all interested public to give their opinion at the time of the public hearing.
- That simultaneously another W.P. (C) No. 24789 of 2020 was filed before the Hon'ble Orissa High Court, on the same cause of action. The High Court passed an interim order on 29.09.2020 whereby a stay was imposed on the public hearing. Subsequently, the order was modified on 30.09.2020, and the public hearing was directed to take place. On 09.10.2020 the Hon'ble Court disposed of the Writ Petition with directions to the Petitioners to make representation to Collector Jharsuguda.
- The Collector on 18.10.2020 passed an order confirming that proper public hearing had been conducted on 30.09.2020, and that there was no need to reconvene the public hearing.
- Subsequently, the order dated 09.10.2020 was challenged in Special Leave Petition 5140/2021 before the Supreme Court, which was dismissed on the ground that an alternate remedy was present. Pursuant to the same WA No. 711/2021 was filed before the Hon'ble High Court of Orissa, wherein vide order dated 15.12.2021 a stay order on the process for the grant of EC was imposed. The said Writ Appeal along with WP(C) No. 24790 of 2020 was subsequently disposed of by the Hon'ble High Court on 10.01.2022

holding that that there is no legal impediment for competent authority to proceed in accordance with law.

9. In the meanwhile in pursuance of the liberty granted by the Hon'ble High Court in W.P. (C) No. 24789/ 2020, the public hearing was conducted on 30.09.2020 and all the requisite documents including the EIA Report were placed before the public for their comments and suggestions. The Minutes annexed at Page 60 of the Appeal clarify that the public was in favour of the said expansion of the unit and the grievances largely pertained to ensuring that they along with their kin were provided with the requisite employment in the plant. The Minutes of the Public Hearing along with the procedural history of the challenge in the High Court was shared by State Pollution Control Board with the MoEF&CC. Thus, the Public Hearing was conducted by the answering Respondent in compliance with the EIA Notification, 2006. There is no record of any objection by the Appellant or his organisation in the minutes of the hearing annexed in the Appeal at Page 64. That it is also surprising to note that on one hand the Appellant is claiming in the Appeal and the Rejoinder that the public hearing was conducted at 4:30pm instead of 11:00 am leading to limited participation of the village community. On the other hand, it has a grievance with the participation of as many as 220 members of the village community as against the prescribed limit of 100 people by the Ministry of Home Affairs during Covid restrictions. This Hon'ble Tribunal may take strict note of the contradiction in the submissions of the Appellant, who themselves are confused with their cause of grievance and action against the project of the answering Respondent.
10. It is also pertinent to note that post the recommendation of the EAC on 22.03.2022, the MoEF&CC issued an Office Memorandum dated 11.04.2022

prescribing the Guidelines for granting EC under para 7(ii)(a) of the EIA Notification for expansion upto 50% within the existing premises/mine lease area, without additional land acquisition. The said Guidelines clarify that there is no requirement of public hearing where an expansion is proposed up to 50% subject to certain conditions. The answering Respondent falls within the ambit of exception no. 2, where it is well within 20% expansion. Given the said position of law, the contention of the Appellant regarding public hearing, no longer holds ground as the Ministry itself has clarified that there is no requirement of public consultation where expansion upto 50% is sought by the Project Proponents . The Office Memorandum dated 11.04.2022 is marked and annexed as **Annexure R/1**.

IV. No Requirement in law to submit the revised EIA Report again for Public Hearing

11. That at the outset, it is pertinent to note that the EIA Notification of 2006 also does not mandate the submission of the revised EIA Report before the public for another hearing or for that matter after every revision as per the suggestion(s) of the EAC/SEAC. The Notification in para 7 clause IV clearly states that – *“Appraisal means the detailed scrutiny by the Expert Appraisal Committee of State Level Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing the necessary clarifications in person or through an authorised representatives”* It is also imperative to highlight that para 7 clause IV (i) has to be read with Appendix V which prescribes the procedure for appraisal. In Appendix V, the procedure clearly includes *inter alia* communication of any inadequacies in the final EIA Report or any other document.

12. That the Appellant's reliance on the term '*necessary clarifications*' cannot be read in isolation from the contents of the remaining portion of Para 7 of the EIA Notification including Appendix V which specifically states that the regulatory authority during an appraisal can convey the requisite inadequacies in the final EIA Report. It is submitted that the EAC in compliance with the abovementioned procedure conveyed the inadequacies in the EIA Report to the answering Respondent, which were rectified in accordance with the recommendations and thereafter submitted again for a detailed scrutiny.
13. That there has been no misrepresentation by the answering Respondent in the EIA Report, the lacunae with respect to certain details in the report pertained to the presentation of information given by the Consultant before the EAC. Noting the lacunae therein, the EAC had noted that the consultant had prepared a poor report and thus a revised EIA/EMP was recommended to be submitted by the answering Respondent herein. That the same cannot be construed as misrepresentation for obtaining EC as the said Report was not agreed to by the EAC and did not form the basis of the present EC. In fact the EIA report scrutiny and the procedure was rigorous over a period of almost one and half years with four detailed sittings by the EAC along with extra information sought from the answering Respondent till they were satisfied to grant the impugned EC. The Appellant has failed to point out any meritorious lacunae from the environmental stand point in the present EC and is only relying on hyper technicality. Thus, the reliance on para 8 of the EIA Notification does not hold any merit in the present case.
14. That further, the changes with respect to the baseline data were required to be updated as the OM dated 29.08.2017, which required the baseline data in the EIA Report to not be older than three years at the time of the submission of the proposal for EC. The baseline data in the first report was collected from

2017- 2018. Due to revision required in the EIA Report, the baseline data was collected again in 2021-22, for ambient air quality, ground water, soil and noise among others, in accordance with the OM dated 29.08.2017. Thus, the revised baseline data in the revised EIA Report, from an environmental standpoint, has appropriately and adequately captured the existing particulate matter, among other parameters compared to the baseline data in the previous report. In view of the same, the Appellant cannot have any grievance against the revised and improved baseline data in the EIA Report. The Appellant has failed to point out any deficiency on merits on the said EIA Report. Arguendo, the revised EIA Report should also have been placed for public hearing, the OM dated 11.04.2022 clarifies that there is no requirement of public consultation if the expansion is upto 50% subject to certain conditions. A Copy of the OM dated 29.08.2017 is marked and annexed as **Annexure R/2**.

V. EC for expansion has been submitted after detailed scrutiny by the EAC and in compliance with the EIA Notification, 2006

15. That it is reiterated that the EAC has in compliance with the procedure specified in para 7(IV) read with Appendix V of the EIA Notification, appraised the proposal of the answering Respondent in four meetings over a period of almost one and half years. The same is evident from the minutes of the EAC meetings which note the lacunae in the proposal if any and rectification undertaken by the answering Respondent from time to time to ensure its expansion in accordance with the law.

16. That it is also imperative to highlight that this is the second expansion of the Unit and the expanded unit of the answering Respondent is in complete operation at present. The compliance of the conditions of the EC dated

05.05.2022 is being regularly monitored by the Ministry of Environment, Forest and Climate Change along with the State Pollution Control Board. The grievances of the Appellant pertaining to the expansion of the project are duly addressed and monitored by the abovementioned Regulatory authorities.

17. That further, the reliance placed on the case of Mohinder Singh Gill is an incorrect reasoning of the Judgment as the reason relied upon by the Appellant has been brought out of context. Infact, the Judgment was in favour of the Chief Election Commissioner and its decision for repoll which was considered to be bonafide. Similarly, the number of times the project was appraised by the EAC clearly establishes the bonafide intention and application of mind by the EAC on the expansion project application of the answering Respondent, to which there is no specific allegation by the Appellant.

VI. No encroachment of forest land or dumping of fly ash in forest land

18. That with respect to the reliance of the Appellant on the Ajit Dhal case, it is reiterated that the answering Respondent had clarified to the EAC that the answering Respondent pursuant to an agreement with Mr. Raju Gond, was filling his low lying area with fly ash and carrying out reclamation activity after obtaining all the requisite permissions from the State Pollution Control Board. However, due to severe monsoon, the fly ash got spilled over to the nearby land of Mr. Ajit Kumar Dhal who thereafter filed an Application (OA No. 10/2021) before this Bench of the Hon'ble National Green Tribunal. This Hon'ble Bench has disposed the matter in view of the steps undertaken by the answering Respondent for removing the fly ash, development of earthen embankments to ensure that there is no spillage in the future and submission of compensation for loss or damage caused due to the spillage. The answering Respondent has duly addressed the issue, which arose due to the events

beyond the control of the answering Respondent. Thus, the allegations of the Appellant herein at a belated stage are without any merit and certainly cannot be a ground for appeal. Each issue, including the impact on the agricultural fields has been duly addressed by the answering Respondent and which is also recorded in the 2nd EAC Meeting Minutes. The contents of para 12 to 15 of the Reply of the answering Respondent may be read as a response herein and are not being reiterated for the sake of brevity.

19. That it is humbly submitted that no ground is made out to necessitate a fresh public hearing or consultation on the basis of the above allegations. The Rejoinder of the Appellant merely raises hyper technical and frivolous grounds for the intervention of this Hon'ble Tribunal but fails to substantiate the same on law and facts. This Hon'ble Tribunal may take strict note of the forum shopping, the bonafides of the Appellant, which are clearly for reasons other than environmental concerns and dismiss the present Appeal with huge costs.

Drawn on: 03.05.2024

Filed on: 04.05.2024

Place: Kolkata

DRAWN BY:



Sangay Kazi Thupden, Mansi Bachani & Gitanjali Sanyal
Advocates for the Respondent No. 2
29, LGF, Presidential Estate,
Nizamuddin East, New Delhi -110013
Email: eldflegal@gmail.com +91- 8851323704

SETTLED BY:

Sanjay Upadhyay
Senior Advocate

IN THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

Appeal No. 24 of 2022

IN THE MATTER OF:

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...Applicant

Versus

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...Respondent(s)

AFFIDAVIT

I, Satyapriya S/o Shri Arvind Shankar Singh aged about 47 years, presently working as Head Legal, Aluminum Business of M/s Vedanta Limited, having my Office at 2nd Floor, Core-6, SCOPE Complex, Lodhi Road, New Delhi, do hereby solemnly affirm and declare as under:

1. That I am the authorized representative of the Company in the present case and duly authorized to sign the present Affidavit and as such am fully acquainted with the facts and circumstances of the case and as such am competent to swear this Affidavit.
2. The contents of the accompanying Sur Rejoinder are true and correct to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.
3. That the Annexures in the accompanying Sur Rejoinder are true and correct to the best of my knowledge.

For Vedanta Limited
Satyapriya
Authorised Signatory
DEPONENT

10 3 MAY 2024

VERIFICATION:

Verified at New Delhi on this 2nd day of May, 2024 that the contents of the above Affidavit are true and correct to my knowledge and belief and no material has been concealed therefrom.

Satyapriya
Notary Public
Signed/put in my presence.

10 3 MAY 2024

NOTARY
SHAHJAHAN
DELHI
Reg. No. 18698
Dt. Exp. 28/07/2024
GOVT. OF INDIA

CERTIFIED THAT THE DEPONENT
Shri/Smt. Mr./Ms. *Satyapriya*
S/o/W/o *Arvind Shankar Singh*
Identified by *Satyapriya*
has solemnly affirmed before me on *10/03/2024*
on *10/03/2024* that the contents of the affidavit which
have been signed by me are
true and correct to his/her knowledge
Notary Public

For Vedanta Limited
Satyapriya
Authorised Signatory
DEPONENT

Satyapriya
Resident
Satyapriya

Government of India
Ministry of Environment, Forest and Climate Change
(IA Division)

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi – 110003

Dated: 11th April, 2022

OFFICE MEMORANDUM

Sub: Guidelines for granting Environmental Clearance (EC) under para 7(ii)(a) of EIA Notification, 2006, for expansion up to 50%, within the existing premises/ mine lease area, without additional land acquisition – reg.

Expansion or modernization of existing projects or activities listed in the Schedule to the EIA notification 2006 entailing capacity addition with change in process or technology and/or product mix shall be undertaken only after obtaining prior Environmental Clearance (EC).

2. Para 7(ii) of EIA Notification 2006, *inter-alia* provides that:
 - a. Projects seeking prior EC for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance was granted [with increase in lease area or production capacity in mining projects] shall be considered by the concerned Expert Appraisal Committee [or SEAC, as the case may be] to decide whether Environment Impact Assessment and public consultations need to be carried out for grant of EC.
 - b. Expansion of existing projects [listed in item numbers 2, 3, 4 and 5 of the Schedule having Prior Environmental Clearance] with no increase in pollution load shall be exempt from the requirement of prior EC (derived on the basis of such prior EC).
 - c. Any change in configuration of the plant or activity from the EC conditions during execution of the project, shall not require prior EC, if there is no change in production capacity and there is no increase in pollution load.

3. The Ministry has been continuously making efforts to streamline the procedure for projects seeking prior Environmental Clearance (EC) under the different provisions of para 7(ii) of the EIA Notification 2006. Vide O.M. No. J-11015/224/2015-IA.II(M) dated 15.09.2017, the Ministry provided certain guidelines for expansion of Coal mining projects up to 40% capacity in two-three phases subject to certain conditions. Subsequently, vide OM No. IA3-22/23/2021-IA.III [E167077] dated 20.10.2021, the Ministry also issued guidelines for expansion of Iron, Manganese, Bauxite and Limestone mining projects upto 20% capacity, subject to certain conditions.

4. The aforesaid matters have been further examined in the Ministry with the objective of bringing about uniformity and consistency in consideration of projects under Para 7(ii)(a) by concerned Expert Appraisal Committee (EAC)/ State level EACs across all states. Accordingly, the Ministry deems it necessary to issue a guideline to deal with expansion proposals which are received under para 7(ii)(a) of EIA Notification, 2006 in respect of the developmental projects listed in the Schedule to the said notification seeking prior-EC involving expansion with increase in production capacity within the existing premises/ mine lease area; or expansion due to modernization of an existing unit through change in process and or technology or involving a change in the product-mix; or enhancement of cargo handling capacity in ports & harbors, widening of roads; or enhancement in built-up area, subject to the fulfilment of the following criteria:

- i. The project should have gone through the public hearing process, at least once, for its existing EC capacity on which expansion is being sought, except those category of projects which have been exempted as per para 7 III (i) of EIA Notification 2006 and its amendments.
- ii. There should not be change in Category of the project from 'B2' to 'B1' or 'A' due to proposed modernisation or expansion.
- iii. There is no additional land acquisition or forest land diversion involved for the proposed expansion or there is no increase in lease area with regard to mining vis-à-vis the area mentioned in the EC, based on which public hearing has been held earlier.
- iv. The proposed expansion shall not be more than 50% of production capacity as mentioned in the prior EC, issued on the basis of public hearing held and the same shall be allowed in minimum three phases.
- v. Predicted environmental quality parameters arising out of proposed expansion/modernization shall be within the prescribed norms and the same shall be maintained as per prescribed norms.
- vi. The proposed expansion should not result in reduction in the greenbelt area as stipulated in the earlier EC, or if the existing ratio of greenbelt is more than 33%, after expansion it should not reduce below 33%.
- vii. The project proponent should have satisfactorily complied the conditions stipulated in the existing EC(s) and satisfactorily fulfilled all the commitments made during the earlier public hearing/consultation proceedings and also the commitments given while granting previous expansion, as may be applicable. This shall be duly recorded in the certified compliance report issued by the IRO/CPCB/SPCB, which should not be more than one year old at the time of submission of application.
- viii. Public Consultation shall be undertaken [if applicable as per table below] by obtaining response in writing, as per para 7 III (ii) (b) of EIA Notification 2006, except those category of projects which have been exempted as per para 7 III (i) of EIA Notification 2006 and its amendments.
- ix. Effluent monitoring including air quality monitoring systems as specified in the existing EC, if stipulated, should have been installed.

5. Subject to the fulfilment of the conditions at Para 4 (i) to (viii) above, following procedure shall be adopted for processing the application for considering expansion of proposed project up to 50% of capacity as mentioned in the existing EC, in minimum three phases under para 7(ii)(a) of EIA Notification, 2006.

Scenario	Intended change through modernization/ change of product mix/ expansion	Requirement of revised EIA/ EMP report	Requirement of Certified Compliance Report	Requirement of fresh Public Consultation	Whether reference to Appraisal Committee is required
I	Projects which involve modernization/change of product mix without increase in production capacity but with increase in pollution load.	Yes	Yes	No	Yes
II	Up to 20 percent based on environmental safeguards conditions.	Yes	Yes	No	Yes
III	Up to 40 percent based on successful compliance of previous environmental safeguard conditions related to expansion of 20 percent.	Yes	Yes	No	Yes
IV	More than 40 percent but less than 50 Percent based on successful compliance of previous environmental safeguard conditions related to expansion of 40 percent.	Yes	Yes	Yes	Yes

6. Project Proponent shall apply in the requisite form on the PARIVESH Portal under para 7(ii) of EIA Notification 2006, along with EIA/ EMP reports based on standard ToRs and Public consultation report, if applicable. The concerned EAC/SEAC shall appraise the project proposal and it may prescribe additional sector specific and/or other environmental safeguards after due diligence, as required.

7. Other statutory requirements like Consent to Establish/Operate, Clearance from CGWA, approval of Mining Plan, Mine Closure Plan, Mine Closure Status Report, approval of DGMS, Forest Clearance, Wildlife Clearance, etc., if applicable, are to be satisfactorily fulfilled at the time of application.

8. The projects that do not qualify with the above requirement shall continue to be considered on a case-to-case basis by the concerned EAC/ SEAC as per the provisions of para 7(ii)(a) who will decide whether Environment Impact Assessment and public consultations need to be carried out.

9. Those projects which involve modernization/change of product mix with increase in production capacity shall be considered as per Scenarios-II to IV of the table above.

10. This O.M. is issued in supersession of OM J-11015/224/2015-IA.II (M) dated 15.09.2017 and O.M. No. IA3-22/23/2021-IA.III[E167077] dated 20.10.2021 and with the approval of the Competent Authority.


(A.K. Agrawal)
Director

To

1. Chairman, Central Pollution Control Board (CPCB).
2. Chairman of all the Expert Appraisal Committees
3. Chairperson/Member Secretaries of all the SEIAAs/SEACs
4. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
5. All the Officers of I.A. Division

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to DGF&SS (EF&CC)
5. PPS to AS(TK)/PPS to JS (SKB)
6. Website, MoEF&CC/Guard file.

-TRUE COPY-

956
No. J-11013/41/2006-IA-II (I) (Part)
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

ANNEXURE R/2

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj
New Delhi-110003

Dated: 29th August, 2017.

OFFICE MEMORANDUM

Subject: Terms of Reference for EIA/EMP studies for the projects/activities requiring Environmental Clearance under the EIA Notification, 2006 - Extension of validity period - regarding.

In order to streamline the process and provide greater clarity in issuing Terms of Reference (ToRs) for undertaking EIA/EMP studies for the projects/activities requiring Environmental Clearance under the EIA Notification, 2006, the following decisions have been taken with immediate effect:

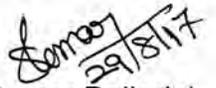
- (i) The validity of ToRs for projects/activities (except for River Valley and HEP Projects), for submission of EIA/EMP reports shall be three years.
- (ii) The validity of ToRs for River Valley and HEP Projects, for submission of EIA/EMP report shall be four years.
- (iii) The above validity period can be extended by the concerned Regulatory Authority for a maximum period of one year without referring the proposal to the EAC/SEAC concerned, provided an application is made by the applicant before expiry of the validity period, together with an updated Form-1 and proper justification and there is no change in terms and conditions of the ToRs. After the lapse of validity, such extension will need EAC/SEAC consideration.
- (iv) Thus, an outer limit of validity of ToRs shall be 4 years for all the projects/activities and 5 years for River Valley and HEP Projects.
- (v) The ToRs will specifically mention the date of expiry of validity.
- (vi) Extension of validity of ToRs beyond the outer limit of four years for all projects/activities, and five years for River Valley and HEP projects, shall not be allowed/considered by the Regulatory Authority.
- (vii) The baseline data used for preparation of EIA/EMP reports may be collected at any stage, irrespective of the request for ToR or the issue thereof. However, such a baseline data and the public consultation should not be older than 3 years, at the time of submission of the proposal, for grant of Environmental Clearance, as per ToRs prescribed.

- (viii) Public consultation shall be conducted during the validity of the ToRs. The public consultation conducted after the expiry of ToRs shall not be accepted by the Regulating Authority.
- (ix) In case the proposal for Environmental Clearance along with EIA/EMP reports based on the ToRs prescribed, is not submitted within the validity period of ToRs, and/or not complying with the above conditions, the process shall be started *de novo*. The already collected baseline data may be re-used, provided it is not more than 3 years old and duly recommended by EAC/SEAC in their due diligence.
- (x) In case, any proposal for ToR is delisted for want of additional information within the time period, as stipulated by the Ministry, the same can be listed again after the requisite information is submitted.

2. This Office Memorandum is issued in supersession of the earlier OMs of this Ministry as under:

- i) No. J-11013/ 41/2006-IA-II (I) dated 22.03.2010;
- ii) No. Z-11012/1/2013-IA-I (Part) dated 19.11.2013;
- iii) No. Z-11012/1/2013-IA-I (part) dated 12.12.2013;
- iv) No. J-11013/ 41/2006-IA-II (I) dated 22.08.2014;
- v) No. J-11013/ 41/2006-IA.II (I) dated 08.10.2014;
- vi) No. J-11013/41/2006-IA.II(I) dated 07.11.2014; and
- vii) No. J-11015/109/2013-IA.II(M) dated 12.01.2017

3. This issues with the approval of the competent authority.


 (Sharath Kumar Pallerla)
 Scientist 'F'

Copy to:

- 1. All the officers of IA Division
- 2. Chairperson/Member Secretaries of all the SEIAAs/SEACs
- 3. Chairman of all the Expert Appraisal Committees
- 4. Chairman, CPCB
- 5. Chairpersons/Member Secretaries of all SPCBs/UTPCCs

Copy for information:

- 1. PS to Minister for Environment, Forest and Climate Change
- 2. PPS to Secretary(EF&CC)
- 3. PPS to AS(AKJ) / AS (AKM)
- 4. PPS to JS(GB) / JS(JT)
- 5. Website, MoEF&CC
- 6. Guard file



Service in Satyanarayan Rao Vs. Union of India & Ors. (Appeal No. 24 of 2022/EZ)

1 message

ELDF <eldflegal@gmail.com>

Sat, May 4, 2024 at 11:43 AM

To: shrestha.abhimanue@gmail.com, Amrita Pandey <amritalegal@gmail.com>, soumitra.mukherjee@yahoo.com, Dipanjan Ghosh <dpnjngsh0@gmail.com>, Anand Prakash Das <adv.anand.das@gmail.com>

Cc: Kazi Sangay Thupden <sangay@eldfindia.com>, Mansi Bachani <mansi@eldfindia.com>, Gitanjali Sanyal <gitanjali@eldfindia.com>

Dear Sir/Ma'am

Please find the attached copy of the Sur Rejoinder on behalf of Respondent No. 2 M/s Vedanta Limited in the matter of Satyanarayan Rao Vs. Union of India & Ors. (Appeal No. 24 of 2022/EZ).

Thanks & Regards

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Sameer Manher*Clerk**Enviro Legal Defence Firm**29, Presidential Estate LGF,**Nizamuddin East New Delhi – 110013**Ph. No. 011-40573181***Sur Rejoinder R9 Vedanta Ltd.pdf**

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