

BEFORE THE NATIONAL GREEN TRIBUNAL, KOLKATA

O. A. No. 183 of 2023 (EZ)

VISHAL KUMAR Applicant
With

O.A No.44 of 2023 (EZ)

Rakesh Shrivastava ... Applicant

Versus

Bihar Foundry and Casting
& Ors. ... Respondent(s)

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Filed by: -

Surendra Kumar

Advocate

Jharkhand State Pollution
Control Board



BEFORE THE NATIONAL GREEN TRIBUNAL, KOLKATA

O.A. No. 183 of 2023 (EZ)

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With

O.A. No. 44 of 2023 (EZ)

Rakesh Shrivastava Applicant

Versus

Bihar Foundry and Casting ... Respondent(s)
Limited & Ors.

Affidavit on behalf of Jharkhand State
Pollution Control Board in compliance to the
directions of Hon'ble Tribunal contained in the
order dated 10.09.2024

1, Kumar Manibhushan son of Shri Lavlesh Kumar Shahi.
presently posted as Environmental Engineer, Jharkhand
State Pollution Control Board, Ranchi and am duly

27 JAN 2025
Date
15
Authorised under Notaries Act 1956
Notary No. 1956 Ref. No. of
Ranchi

Rel. No.
7 JAN 2025
Date



authorized to swear this affidavit and do here by solemnly state and affirm as follows: -

1. That, at present, I am working and posted as Environmental Engineer, Jharkhand State pollution Control Board, Ranchi and as such, I am well acquainted with all the facts and circumstances of this case.
2. That, I have gone through the order dated 10/09/2024 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata and have understood the contents therein.
3. That, I have been authorized to swear this affidavit by the Competent Authority. Further, it is stated that I have gone through the relevant files and records in the present case.
4. That it is humbly stated and submitted that the Hon'ble Tribunal vide order dated 07.08.2024, was pleased to direct the Jharkhand State Pollution Control Board to file affidavit stating what action

has been taken on the application dated 10.03.2024 in view of the following submission made by Mr. Rajendra Krishna learned Senior Counsel :-

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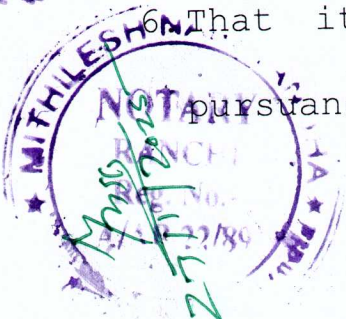


"16. Mr. Rajendra Krishna, learned Senior Counsel submits that in pursuance to the order of the Tribunal dated 01.03.2023, the Respondent Nos.1 and 2, Bihar Foundry and Casting Limited and Goutam Ferro Alloys, had approached the Jharkhand State Pollution Control Board seeking cancellation of the Consent to Operate dated 23.01.2023 vide letter dated 10.03.2024 under receiving dated 11.03.2024 but till date no order has been communicated to him."

5. That it is further humbly stated and submitted that during the course of hearing of the instant matter on 10.09.2024, the learned Senior Counsel for the Applicant informed the Hon'ble Tribunal that an order has been passed by the Jharkhand State Pollution Control Board on 06.09.2024, copy of which has been communicated to him only yesterday. The Hon'ble Tribunal directed the Jharkhand State Pollution Control Board to file the said order dated 06.09.2024 by way of affidavit.

6. That it is humbly stated and submitted that in pursuance the directions of the Hon'ble Tribunal,

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the order dated 06.09.2024 is being brought on board.

Photocopy of the order dated 06.09.2024 of JSPCB is annexed and marked **Annexure-A/1**

7. That, this Affidavit is filed bonafide and in the interest of justice.

8. That, the answering respondent craves leave of the Hon'ble Tribunal to submit further reply if required or directed by the Hon'ble Tribunal.

9. That the statement made in forgoing paragraphs are true to my knowledge in annexure are true copy of its original.

Kumar Manibhusan
DEPONENT

VERIFICATION:

Verified at Ranchi on this the day of 27 JAN 2025 January, 2025 that the averments & facts stated herein above are true and correct to my knowledge and belief and nothing material has been concealed there from.



Kumar Manibhusan
DEPONENT

Authorized under Notaries Act 1956 & Notaries Rules 1958 by Govt. of Jharkhand (Ranchi) (India)

15 Date: 27 JAN 2025 Ref. No.:

27 JAN 2025



JHARKHAND STATE POLLUTION CONTROL BOARD

TOWNSHIP ADMINISTRATION BUILDING, HEC COMPLEX, DHURWA, RANCHI 834004
Telephone: 0651-2400850 (Fax)/ 2400851/2400852/2401847/2400979/2400139

By Email Hon'ble NGT Matter
Time Bound (Urgent)

Ref. No. B-2014.

Date... 06/09/2024

From,

Shashikar Samanta,
Chairman.

To,

The Managing Director,
M/s Bihar Foundary and Casting Limited,
At: Industrial Area, Marar, Ramgarh.

Sub: - Direction under Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31(A) of the Air (Prevention and Control of Pollution) Act, 1981 – Regarding.

Whereas, the Hon'ble National Green Tribunal (NGT), Eastern Zonal Bench (EZB), Kolkata in its order dated 01/03/2024 in I. A. No. 23/2024/EZ in Original Application No. 44/2023/EZ in the matter of Rakesh Shrivastava Versus Bihar Foundry and Casting Limited &Ors. has given certain directions. The operative part of which is as follows: -

"8. The Applicant may, therefore, approach the Jharkhand State Pollution Control Board vide an application within ten days with regard to his relief in respect of cancellation of the Consent to Operate dated 23.01.2023. The Jharkhand State Pollution Control Board shall pass appropriate orders thereon in accordance with law after hearing the complainant and giving an opportunity of hearing to the Respondent No.1."

Whereas, the applicant has filed his application before the Board, which was received by the Board on 11/03/2024.

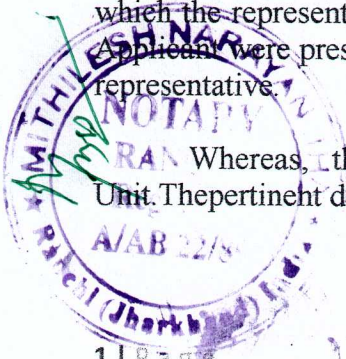
Whereas, the Board has directed the Unit to submit the parawise reply of the representation submitted by the Applicant vide Board's Ref. No. B – 907 Ranchi, dated 03/04/2024.

Whereas, the Unit has submitted its Reply w.r.t. the representation submitted by the Applicant vide its letter dated 15.04.2024.

Whereas, the Board has directed the Plant Incharge of Unit and the Applicant to be present in the Board on 07/06/2024 to discuss the issues and take a conclusive decision vide Board's Ref. No. B – 1277 dated 24/05/2024.

Whereas, the representative of the Unit along with his learned counsel and the learned counsel of the Applicant were present during the representation on 07/06/2024. However, the Applicant arrived after some time when the representation / discussion of the day was over. Again, in continuation to the last representation / discussion session a meeting was held on 14/06/2024 in which the representative of the Unit along with his learned Counsels and the learned counsel of the Applicant were present and the points were raised by the Applicant and reply was given by the Unit's representative.

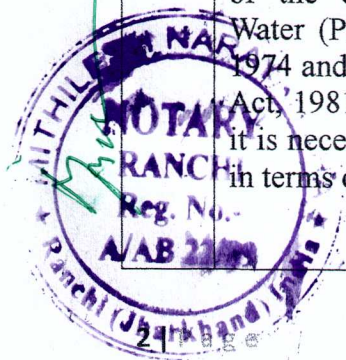
Whereas, the issues which were raised by the Applicant has been replied by the Unit. The pertinent details of which is as below: -



Samant

S.N.	Issues raised by the Applicant	Reply by the Unit
a.	<p>1. This is in respect to the illegal operations of the ferro alloy plant of the Bihar Foundry & Casting Limited which is being operated in full expanded capacity without there being any valid environmental clearance.</p>	<p>The Unit has replied that the ferro alloy plant is not being operated in full extended capacity and the expanded unit is currently completely shut down.</p>
b.	<p>6. However, the application dated 17.12.1999 was filed without obtaining environment clearance in accordance with the Environment Protection Act, 1986. Further, this application for expansion of ferro alloy plant was allowed by Jharkhand State Pollution Control Board (formerly "Bihar State pollution Control board") without considering the fact that there was no valid environment clearance with Gautamferro alloys for seeking no objection certificate to expand its ferro alloy production. Still the JSPCB proceeded to grant NOC to Gautam Ferro Alloys for expansion of its ferro alloy unit which is in direct violation of the provisions of the Environment Protection Act, 1986, Water (Prevention and control of pollution) Act, 1974 and Air (Prevention and control of pollution) Act, 1981 and therefore, the violations of environmental norms by BFCL & Gautam Ferro Alloys commenced since start of their plant and such violations are continuing till date which are further explained in the compliant.</p> <p>7. That it is humbly that BFCL was issued an NOC for Establishment dated 24.02.2000 on the basis of its application dated 17.12.1999 for expansion of its ferro alloy unit to 26MT/day capacity.</p>	<p>With reference to the statements and/or allegations contained in the paragraphs 5 and 6 of the said application, I deny and dispute each and every allegation contained therein save what are matters of record and save what are specifically mentioned heretofore, as if each one has been set out herein and denied in seriatim. I deny that the Gautam Ferro Alloy is a proprietorship firm and/or a company under the provisions of the Companies Act, 1956 and/or is owned by the directors of the respondent no.1 or that the same is a distinct entity or separate from Bihar Foundry and Castings Ltd., as alleged or at all. I say that Gautam Ferro Alloys is a unit of Bihar Foundry and Castings Ltd.</p>
c.	<p>8. That it is humbly submitted that the NOC dated 24.02.2000 provided at Clause 3 (i) that BFCL was required to obtain consent to operate prior to commission of the plant. It is however submitted that BFCL did not obtain any consent to operate for producing 26 MT silico manganese and the 1st consent to operate was issued to it only on 12.03.2015. Thus, considering that the ferro alloy plant of BFCL was running from Establishment of First 1 X 5 MVA furnace which was further expanded into 2 X 5 MVA furnace for 26 MT /day till 12.03.2015 without there being any valid consent to operate even when it was specifically required to obtain the same as per the conditions of the NOC issued to it on 24.02.2000, it can be deduced that BFCL has committed gross violation of the environment protection laws including Water (Prevention and control of pollution) Act, 1974 and Air (Prevention and control of pollution) Act, 1981 and has caused pollution and therefore, it is necessary to take appropriate action against it in terms of the applicable laws.</p>	<p>With reference to the statements and/or allegations contained in the paragraphs 7 to 11 of the said application, I deny and dispute each and every allegation contained therein save what are matters of record and save what are specifically mentioned heretofore, as if each one has been set out herein and denied in seriatim. I say that the requirement to obtain an Environmental Clearance was notified by the Ministry of Environment, Forest and Climate Change only after the year 2004, and pursuant to which, the State Pollution Control Board had authority to grant relevant Consent to Establish and Consent to Operate without having a valid Environmental Clearance. I hereby crave leave to refer to the said notifications issued by the Ministry of Environment, Forest and Climate Change, at the time of hearing, if necessary. I deny that No Consent to Operate was issued and/or</p>

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9. It is pertinent to mention here that there is no Valid NOC / CTE / CTO for their first 1 X 5 MVA Furnace.

10. That it is further submitted that Clause 3 (vii) of the NOC provides that BFCL is required to carry out plantation in all vacant spots of the ferro alloy plant as a condition precedent for grant of NOC. However, BFCL has not submitted any document showing plantation carried out by it in all the vacant spot of its ferro alloy plant and therefore, BFCL violated the very initial NOC issued to it for its ferro alloy plant.

11. That it is humbly submitted that even when BFCL violated the terms of NOC dated 24.02.2000 issued to it, no action was ever taken by State Pollution Control Board against it for committing such violation. Moreover, the State pollution Board ignored such violations of the NOC issued to BFCL and further issued subsequent approvals and consent to BFCL thereby promoting environment violation.

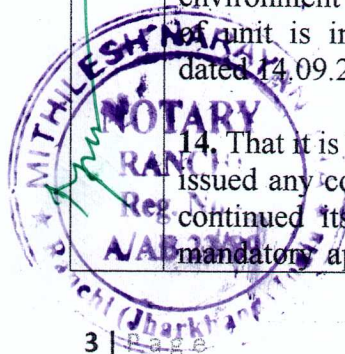
d. 12. That it is humbly submitted that the MOEF has issued a notification dated 14.09.2006 which provides in Clause 2 that expansion of any industry mentioned in the schedule under the notification shall require prior environment clearance. Further, the ferro alloy plant of BFCL falls under the scheduled industry provided under the notification which means that any expansion, modernisation in BFCL would require prior environment clearance.

13. That it is humbly submitted that the ferro alloy plant of BFCL was issued a consent to establish on 20.05.2009 for its 1*7.5MVA unit having production capacity of 30MT/day on the basis of the application filed by it 21.02.2008. However, it is pertinent to note that BFCL has not obtained environment clearance for this 1*7.5 MVA (30 TPD capacity) unit till date. This, issue with respect to operation of 1*7.5 MVA unit of BFCL without obtaining prior environment clearance has already been raised before JSPCB, however, no stringent action is taken against BFCL for illegally operating its 1*7.5 MVA (30TPD capacity) unit without obtaining environment clearance even though such operation of unit is in clear violation of the notification dated 14.09.2006 issued by MOEF.

14. That it is humbly submitted that BFCL was not issued any consent to operate till date, however it continued its operations without obtaining such mandatory approval. Further, the first consent to

that Consent to Operate was issued only on 12.03.2015, as alleged or at all. I deny that the Bihar Foundry and Casting Ltd. has committed gross violation of the Environment Protection Laws, as alleged or at all. I deny that there is no valid NOC/CTE/CTO for the 1 X 5 MVA furnace. Further, I deny that no documents had been submitted by the project proponents showing plantation carried out in all its vacant spots. It is pertinent to mention herein that the project proponent has acquired additional lands over the time, to meet the requirements of the plantation and the green belt area. I deny that there has been any violation of the No Objection Certificate dated 24.02.2000 and that such violations were ever ignored by the State authorities. I deny that the project proponent has promoted environment violations.

With reference to the statements and/or allegations contained in the paragraphs 12 to 19 of the said application, I deny and dispute each and every allegation contained therein save what are matters of record and save what are specifically mentioned heretofore, as if each one has been set out herein and denied in seriatim. It is pertinent to mention herein that prior to 14.09.2006, the mandate for obtaining an Environment Clearance before obtaining a Consent to Operate and/or Consent to Establish did not exist, and as such guidelines were only issued on and after the year 2004. I deny that the ferro alloy plant of the company was issued a Consent to Establish on 20.05.2009 for its 1 x 7.5 MVA without obtaining any Environmental Clearance till date. I deny that such Consent to Establish as issued by the State Pollution Control Board is in violation and contravention to the notification dated 14.09.2006 issued by the Ministry of Environment, Forests and Climate Change. I further deny that the Consent to Operate was granted by the Jharkhand Pollution Control Board without considering the fact that the no Environmental Clearance was granted to the company for its 1 x 7.5



Signature

operate was issued to ferro alloy plant of BFCL only on 12.03.2015 wherein, the JSPCB without considering the fact that no valid environment clearance was granted to BFCL for its 1*7.5 MVA ferro alloy unit, granted consent to operate to BFCL for 96TPD which was inclusive of the production to be carried out from 1*7.5 MVA unit.

15. It is reiterated that even though BFCL was illegally running its 1*7.5 MVA unit without obtaining environment clearance or consent to operate since 2009, JSPCB further promoted the illegal activity of BFCL by granting it CTO for the entire ferro alloy plant including the consent to operate for its 1*7.5 MVA unit for which environment clearance is not granted to BFCL till date. Thus, the consent to operate dated 06.01.2016 issued to BFCL is liable to be cancelled on this ground alone that BFCL hid crucial information from JSPCB while obtaining the consent to operate by not declaring the fact that it did not have any valid environment clearance for running its 1*7.5 MVA unit.

16. That the fact that the consent to operate was issued to BFCL for running its 1 & 7.5 MVA unit for which environment clearance is not granted till date shows that BFCL has violated the provisions of the 14.09.2006 notification issued by MOEF and therefore, the consent to operate issued to it is liable to be cancelled/revoked till a valid environment clearance is issued to BFCL.

17. That it is further submitted that consent to operate dated 06.01.2016 was renewed by the consent to operate dated 10.11.2020 for another 5 years till 31.12.2025.

18. It is however pertinent to note that the consent to operate was renewed in favour of BFCL without acknowledgement of the fact that BFCL had failed to obtain valid environment clearance for its ferro alloy plant and that one of the units i.e. 1*7.5 MVA was running without valid environment clearance.

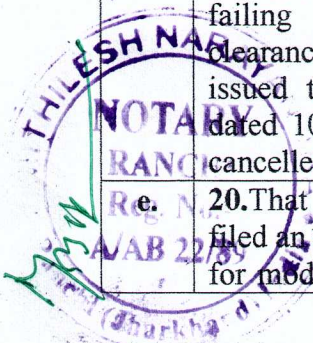
19. That it is further submitted that the JSPCB has wrongly issued consent to operate to BFCL by failing to consider that valid environment clearance for production of 96 TPD was never issued to BFCL. Thus, the consent to operate dated 10.11.2020 issued to BFCL is liable to be cancelled/revoked.

20. That it is humbly submitted that BFCL had filed an application seeking environment clearance for modification cum expansion of its ferro alloy

MVA unit. I deny that the project proponent has been illegally running its 1 x 7.5 MVA unit without obtaining Environmental Clearance or Consent to Operate since 2009, as alleged or at all. It is further denied the Jharkhand Pollution Control Board promoted the illegal activities of the project proponent. I deny that the company has hidden any crucial information from the Jharkhand State Pollution Board while obtaining the Consent to Operate or that the same is liable to be cancelled on this ground alone, as alleged or at all. It is further denied that the Consent to Operate dated 06.01.2016 was renewed without acknowledgement of the fact that the company had failed to obtain a valid Environmental Clearance for its ferro alloy plant or that its units are running without valid Environmental Clearances, as alleged or at all. It is further denied that the Consent to Operate issued for the said unit, is liable to be revoked and/or cancelled, as alleged or at all.

With reference to the statements and/or allegations contained in the paragraphs 20 to 28 of the said

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plant by increasing the production capacity of its existing units and installing a new 1*9 MVA along with a CLU converter. Further, even before the application for environment clearance could be allowed, BFCL started construction of new unit and modification of its existing units.

21. The fact that BFCL had started construction of new unit and modification of its existing units prior to obtaining environment clearance was noticed by the competent authorities and therefore, a revised terms of reference dated 19.12.2022 was issued to BFCL wherein, it was specifically noted that BFCL had violated the provisions of Notification dated 14.09.2006 by constructing a new unit and CLU converter and by modifying its existing units prior to obtaining environment clearance.

22. That it is humbly submitted that point 15 of the terms of reference dated 19.12.2022 provides that BFCL was required to immediately stop the construction of its 5th furnace which was being constructed without obtaining environment clearance and further to not initiate any new modification/expansion related activity till it obtained environment clearance for the same. However, BFCL without obtaining valid environment clearance from the competent authority not only completed construction of its 5th furnace and CLU converter but also initiated operation from the 5th furnace and CLU converter without obtaining environment clearance.

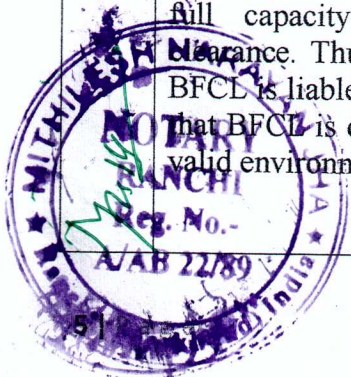
23. The fact that BFCL has started operations of its new and modified units is evident from the slag production data submitted by BFCL which doubled in the FY 2022-23 as compared to production of slag in the FY 2021-22. It may further be noted that the slag production in previous 5 years i.e. prior to illegal expansion and modification done by BFCL was around 20,000 MT-25,000 MT per year. However, in the FY 2022-23, the slag production has increased to 54943.090 MT which is more than the double of the slag production in previous years which shows that BFCL has not only completed the construction of its new unit and modified the existing units but is also operating these units in full capacity without obtaining environment clearance. Thus, the consent to operate issued to BFCL is liable to be revoked on this ground alone that BFCL is operating its units without obtaining valid environment clearance.

application, I deny and dispute each and every allegation contained therein save what are matters of record and save what are specifically mentioned heretofore, as if each one has been set out herein and denied in seriatim. I state that the project proponent has stopped the construction of its 5th Furnace and has not undertaken any new modification/expansion related activities until the Environment Clearance is obtained, which was proposed to be issued to the project proponent after considering all such violations. I deny that the construction of the 5th Furnace has been completed and/or that the said furnace is operational as on date. It is stated that proper quantum of slag has been mentioned in the application seeking clearance for the expansion in question and the projected data mentioned in the application has not been found to be incorrect by the appropriate authorities upon scrutiny. I say that the applicant has deliberately sought to cast a cloud on the issue of disclosure of quantum of slag production only for the purpose of the instant proceeding, without there being any factual basis for the same.

The existing production capacity is 34080 TPA of Silico Manganese and/or Ferro Manganese as per Environmental Clearance/Consent to Operate. Slag generated from production of ferro manganese is sold to producers of ferro silico manganese for use in their production process. Hence there is no environmental impact due to disposal of slag generated in the production of ferro manganese. The Gautam Ferro Alloy unit is exclusively producing ferro manganese only. If the Gautam Ferro Alloy unit were to utilize the existing capacity for production of silico-manganese exclusively, about 20450 TPA of slag will be generated. Lower slag generation is due to high grade imported manganese ores. The silico manganese slag, is crushed and jigged and after recovery of metal is used for road construction and filling up of low-lying areas. The additional

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24. That it is further submitted that even in the EIA report submitted by BFCL itself with its application seeking environment clearance, it has stated that the production of slag after sought expansion would be around 44,000 MT per year however, BFCL has shown actual production of slag more than the declared slag production which shows that not only BFCL is operating its ferro alloy plant with expanded capacity but has also declared lower quantity of slag production in its application seeking environment clearance when its actual quantity of slag production after expansion would be much higher than the project figure submitted by it.

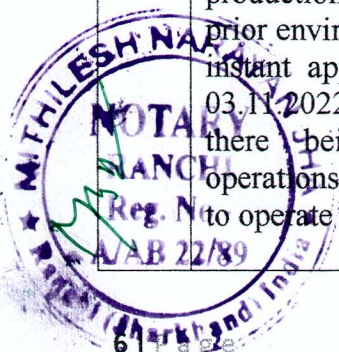
25. That it is further submitted that BFCL is also exporting the finished goods of its CLU converter in the international market and is supplying the low carbon ferro alloys to various public sector undertakings within India even when it has not obtained environment clearance for such production. Thus, this activity of illegally producing low carbon ferro alloys is severely damaging the environment and causing pollution.

26. That it is further submitted that the commencement of BFCL's CLU converter was also publicized by its officials in various social media platform even though BFCL has not obtained valid environment clearance for running the same. Moreover, the official website of the BFCL itself states that BFCL has made a new addition to its production facility by installing a CLU converter which produced low and medium carbon ferro manganese. This shows that BFCL has not only violated the terms of the TOR dated 19.12.2022 by installing CLU converter but has also initiated production from its CLU converter even when it has not obtained valid environment clearance for operating the same. Further, BFCL without taking any steps to curb its illegal activity is displaying the illegal operations being done by it in social media platforms and therefore, the Consent to operate issued to BFCL is liable to be quashed and BFCL's ferro alloy plant is required to be shut down completely.

27. That it is humbly submitted that the illegal production being done by BFCL without obtaining prior environment clearance was also raised by the instant applicant vide its complaint letter dated 03.11.2022 before JSPCB. However, even after there being specific allegations of illegal operations, JSPCB proceeded to renew the consent to operate in favour of BFCL on 23.01.2023.

generation of slag is about 18450 TPA from proposed capacity expansion if the expanded capacity is exclusively use for silico manganese. If expanded capacity is used for ferro manganese, the ferro manganese slag shall have no environmental impact. It is further denied that the project proponent is displaying any of its illegal operations on social media platforms, as alleged or at all.

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28. That it is humbly submitted that the renewal of consent to operate granted to BFCL is in teeth of the Order dated 20.09.2021 passed by the MOEF (Impact Assessment Division) which provides that no renewal to consent to operate or consent to operate be issued to industries where valid prior environment clearance is not available. In case of BFCL, it is admitted fact that the environment clearance for running its plant in enhanced capacity and for operating its 5th furnace along with CLU converter is not available. However, even without there being valid environment clearance, BFCL has already initiated operations of its newly constructed 5th unit and CLU converter and has enhanced the existing units thereby significantly increasing its ferro alloy production. Moreover, BFCL has hidden these crucial information with JSPCB and has fraudulently obtained renewal for its consent to operate on 23.01.2023 and therefore, the renewal to consent to operate issued to BFCL is liable to be revoked as the same is obtained without disclosing the actual details of BFCL. BFCL has obtained environment clearance on separate name and subsequently applied for consent to operate and consent to establish in a different name.

f. 29. That Bihar Foundry and Casting Limited (hereinafter referred to as "BFCL"), is a company registered with ROC, Jharkhand and is engaged in the business related to ferrous products, ferro alloys, ferro silico-manganese etc.

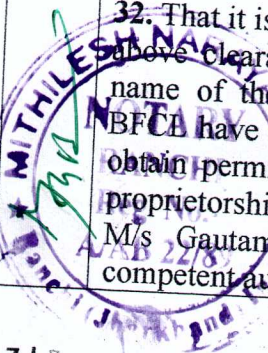
30. M/s. Gautam Ferro Alloys, is a proprietorship firm owned by the directors of Bihar Foundry and Casting Ltd. and is a distinct entity, separate from Bihar Foundries and Casting Limited.

31. That the MoEF (IA division) by its Letter F. No. J- 11011/384/2010-IA-11() dated 31.10.11 issued environment clearance to BFCL for expansion of its Ferro Alloy plant by installing S.E.A.F. for manufacture of ferro-silicone/ferromanganese at plot no. 1405 at Ramgarh Industrial Area, Marar, Hazari Park, Jharkhand on the basis of the required relevant documents submitted relating to the company.

32. That it is humbly submitted that even when the above clearances were issued specifically in the name of the BFCL company, the promoters of BFCL have suspiciously used these clearances to obtain permission for consent to operate for the proprietorship firm under the name and style of M/s Gautam Ferro Alloys by defrauding the competent authorities.

With reference to the statements and/or allegations contained in the paragraphs 29 to 34 of the said application, I deny and dispute each and every allegation contained therein save what are matters of record and save what are specifically mentioned heretofore, as if each one has been set out herein and denied in seriatim. I say that for Unit-I and Unit-II, appropriate clearances have been obtained under the Environment Protection Act and the other relevant statutes relating to water pollution and air pollution. I say that the said clearances have been obtained bonafide upon a true and correct disclosure of necessary facts and upon compliances of all the relevant procedures and rules. I say that the portrayal of Gautam Ferro Alloys as the unit of Bihar Foundry and Casting Ltd. is not fraudulent. At all material times, M/s Gautam Ferro Alloys was and still is a unit of Bihar Foundry and Casting Ltd. The fact that the Gautam Ferro Alloys is a unit of Bihar Foundry and Casting Ltd., would appear from the statements made in the preceding paragraphs

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33. That it is humbly submitted that in the compliance report for consent to operate, the proprietor of Gautam Ferro Alloys had made a statement on affidavit that Goutamferro alloy is a proprietorship firm however, in subsequent statements made by it, it has stated that Gautam Ferro Alloys is a calling name of BFCL ferro alloy unit. It is humbly submitted that such varying statements of the key persons have been ignored by JSPCB while issuing consent to operate in 2020 and subsequently issuing renewed consent to operate dated 23.01.2023. Thus, it is clear that BFCL has obtained these consents to operate by defrauding the officials of JSPCB and therefore, the consent to operate issued to BFCL are liable to be revoked and steps maybe taken to shut down the operations of the ferro alloy plant of BFCL as the same is running without valid environment clearance.

34. It is important to mention here that the competent authorities have not issued any environment clearances in the name of Gautam Ferro Alloys firm till date. However, the directors/promoters of BFCL have fraudulently used the environment clearances issued in the name of their company for obtaining CTO (Consent to operate) for the proprietorship firm M/s Gautam Ferro Alloys. Thus, the consent to operate issued to M/s. Gautam Ferro Alloys and BFCL is liable to be revoked.

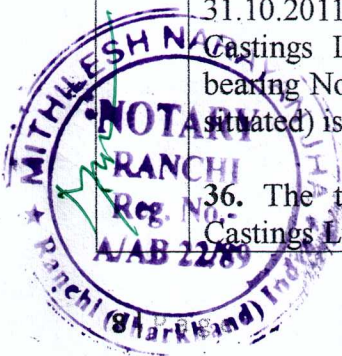
hereof which I hereby repeat and reiterate.

It is further denied that environmental clearances are being issued in the name of a different entity, as alleged or at all. It is denied that the promoters of the respondent private entities are using the permissions issued to the respondent no.1 commonly for obtaining approvals for each entity, as alleged or at all. It is denied that two entities are completely distinct, as alleged or at all. I say that appropriate approvals and permissions have been obtained in respect of the entirety of activities. I say that there is no truth in the allegation that permissions granted for one part of the project are being used for issuance of consequential permission in respect of any other part of the project. The allegations made in paragraphs under reply are also false and incorrect. It is denied that unit is being run since 2009 without Environment Clearances having been obtained in respect of the same. It is denied that there has not been hiding of material particulars, as alleged malafide in paragraphs under reply. It is denied that the project proponents has till date not obtained environment clearance for its 7.5 MVA unit or that the same is running for a decade without any Environment Clearance, as alleged or at all. I further state and deny that the project proponents have obtained clearances with an objective to defraud the authorities as alleged or at all. It is further denied that the directors and/or promoters of the project proponent have fraudulently used the Environmental Clearances issued in the name of Bihar Foundry and Casting Ltd. in for obtaining Consent to Operate for their other unit, Gautam Ferro Alloy unit, as alleged or at all.

g. 35. That The environment clearance dated 31.10.2011 issued to M/s. Bihar Foundry & Castings Ltd. shows that the area of the plot bearing No. 1405 (wherein, the ferro alloy unit is situated) is 14 acres.

36. The total area of M/s. Bihar Foundry & Castings Ltd. plant and the area between the Ferro

As regards the perceived anomaly of land area as mentioned in the paragraphs 35 to 40 under reply, I have already provided sufficient explanation in the preceding paragraphs hereof. In order to avoid prolixity and for the sake of brevity, I repeat and reiterate the aforesaid



alloy unit and the sponge iron unit are varying in all the approvals issued to M/s. Bihar Foundry & Castings Ltd. It is evident from the environment clearance dated 31.10.2011 that the area of the plot 1405 is 14 acres wherein, the ferro alloy unit is situated. Further, the area of the plot bearing no. 1364 is also 14 acres which is evident from the environment clearance dated 28.01.2010 issued to sponge iron plant of M/s. Bihar Foundry & Castings Ltd.

37. It is humbly submitted that in 2 different approvals dated 31.10.2011 (for environment clearance), Consent to operate dated 06.01.2016, the area of the plot bearing plot No. 1405 is reduced from 14 acres to 7.26 acres and further in the latest EIA submitted to MOEF it is mentioned as 7.18 Acres.

38. It is further submitted that 3.51 acres land was granted by State Govt. in 1985 for period of 99 years on lease to the ferro alloy unit of M/s. Bihar Foundry & Castings Ltd. However, the environment clearance was issued to M/s. Bihar Foundry & Castings Ltd. for its ferro alloy unit provides that the same is granted for 14 acres of land. Thus, there is evident discrepancy in the 1st environment clearance issue to BFCL on 31.10.2011. However, even this fact was never disclosed by BFCL which shows that it is habitual violator of environmental norms and is operating its polluting industry without proper approvals and consents of the competent authorities.

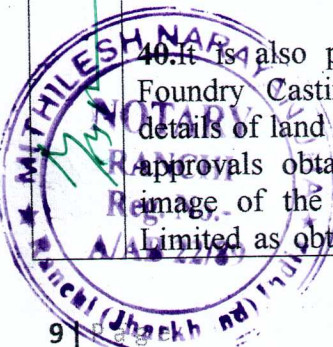
39. It is further to be seen that M/s. Bihar Foundry & Castings Ltd had obtained another 3.67 acres of land for its ferro alloy unit only in the year 2020. This would mean that all the environment clearances and consents to operate issued to M/s. Bihar Foundry & Castings Ltd prior to 2020 were in complete abeyance of the applicable laws as the same were granted to M/s. Bihar Foundry & Castings Ltd when M/s. Bihar Foundry & Castings Ltd was not even in possession of such parcels of land. This shows that the competent authorities had not perused the documents submitted by M/s. Bihar Foundry & Castings Ltd while issuing the various approvals to it.

40. It is also pertinent to note that M/s. Bihar Foundry Castings Limited is showing varying details of land for its ferro alloy plant in different approvals obtained by it however, the satellite image of the M/s. Bihar Foundry & Castings Limited as obtained from Google Earth and map

explanation as contained in the paragraphs above.

It is denied that units mentioned in the Environmental Clearance and Consent to Operate vary to a great extent or that the same is done to defraud the respondent authorities by not complying with the required measures for obtaining environment clearance and subsequent Consent to Operate permissions, as alleged or at all. I deny that the required measures for obtaining Environmental Clearance and subsequent Consent to Operate has not been put in place or complied, as alleged or at all. I say that the allegations made in the paragraphs under reference are false and false to the knowledge of the petitioner. I say that the said allegation is baseless, vexatious and irresponsible. It is denied that the environment clearance dated 28th January, 2010 was issued to the respondent no.1 for its sponge iron plant measuring 14 acres only or that consent to operate has been obtained for land area measuring 47.5 acres or that the same is an act of fraud or misrepresentation on the part of the project proponents before the appropriate respondent authorities, as alleged or at all. I say that the project proponent has neither defaulted nor misrepresented before the appropriate respondent authorities. I say that the allegation of suppression of relevant information pertaining to the plants of the project proponent, as levelled on the project proponent by the applicant are also untrue and incorrect. I say that at all material times appropriate information was furnished. I say that wherever any error has been cropped up, appropriate corrective measures were taken which would appear from specific factual disclosure made in sub-paragraphs above which I repeat and reiterate. I deny that there is any subsisting anomaly in the Environmental Clearance or consent to establish or consent to operate in respect of the said units. I say that the allegations made in paragraphs under reply are without any basis. Apart from the error in the land area, which

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submitted to environmental authorities shows that the area of its ferro alloy plant is 9.64 acre. Thus, it is clear that the consent to operate issued to BFCL and its sister concern Gautam Ferro Alloys is invalid as the same is obtained fraudulently by BFCL without disclosing the details of its actual land.

was made by inadvertent mistake and subsequently corrected by a letter already on record, there has been no further error in the matter. I say that the project proponent has at all material times bonafide disclosed proper information in respect of its applications for clearances under the various environment statutes.

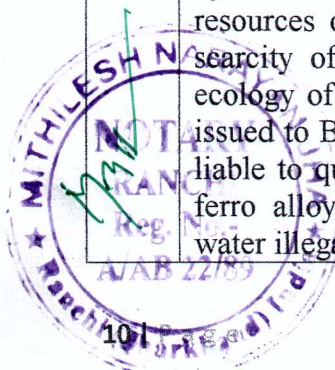
h. 41. That it is humbly submitted that BFCL is required to develop and maintain 33% green belt area in its ferro alloy plant, however, the satellite image of the BFCL's ferro alloy plant shows that there is no green belt area in the industry as per required norms and BFCL is showing same stretch of green belt for both its sponge iron and ferro alloy plant to defraud the authorities. Thus, the consent to operate which is issued with a prior condition that BFCL would maintain 33% green belt area are liable to be revoked as BFCL has failed to comply with such condition. It is pertinent to mention here that since beginning and in spite of showing green belt area for the project he is not maintaining the green belt as per the conditions of CTE, CTO & EC and using green belt area for their expansion purposes, storage purposes, godown purposes and office purposes. Moreover, he has removed the green belt (Plantation) for its expansion activities without any valid permission.

With reference to the statements and/or allegations contained in the paragraphs 41 to 49 of the said application, I deny and dispute each and every allegation contained therein save what are matters of record and save what are specifically mentioned heretofore, as if each one has been set out herein and denied in seriatim. It is denied that there is any violation or that the project proponent is expanding its factories after violation of the green belt area, as alleged or sought to be alleged or at all. It is denied that the respondent no.1 has not obtained any permission for drawal of ground water for running its Sponge Iron Plant or that the Sponge Iron Plant of the respondent no.1 has been run on illegal drawal of ground water or anything is impacting or severely impacting the ground water level in the ger or causing loss or huge loss to the Government, as alleged or at all. I deny that the respondent no.1 is not paying any taxes or fees for drawal of ground water for running its Sponge Iron Plant, as alleged or at all. I say that the requirement of drawal of ground water is made after obtaining appropriate permission from the appropriate authority. It is therefore false and false to the knowledge of the applicant to allege that the Sponge Iron Plant of the respondent no.1 is run on illegally drawal of ground water or that the ground water is being enjoyed free of cost, as alleged or sought to be alleged or at all.

42. That it is further submitted that around 2kl/tonne water is required for production of ferro alloy using silico manganese. Considering that BFCL's ferro alloy unit is having production capacity of 34000 tonnes, the requirement of water would be atleast around 68 Kl for industrial use excluding the domestic and other consumptions of plant. However, BFCL has taken permission for drawal of only 35 kl water which is insufficient for production of 34,080 tonnes ferro alloys. It is further pertinent to note that there is no alternative source of water for BFCL and the fact that the plant is still running at its full capacity with half of the total required water quantity shows that BFCL is engaged in illegal drawal of ground water to meet its water requirement for production of ferro alloys. Such illegal act being committed by BFCL has severely impacted the water resources of the area and has led to increase in scarcity of ground water thereby impacting the ecology of the area. Thus, the consent to operate issued to BFCL for running its ferro alloy plant is liable to be quashed/revoked due to the fact that the ferro alloy plant is running by drawing ground water illegally.

It is stated that Unit has installed Continuous Stack Emission Monitoring System (CEMS) for monitoring of dust and gaseous emission from the stack which is connected to the server of Central Pollution Control Board and JSPCB and another one is PM₁₀ analyzer for

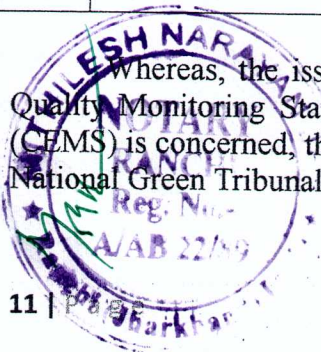
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43. The CEPI guidelines provide that CAAQMS should be installed to analyse not just PM 10 but PM 2.5, SO_x, NO_x and CO in the industries situated in critically and severely polluted areas. This compliance is also essential as M/s. Bihar Foundry & Castings Ltd is a highly polluting "RED" category ferro alloy industry. However, BFCL is running its ferro alloy plant without installation of CAAQMS system and therefore, the consent to operate issued to ferro alloy plant of BFCL is liable to be revoked on this ground alone.

ambient dust monitoring of size up to 10 micron in place in the plant which is connected with the Jharkhand State Pollution Control Board's server, as a result of the same, data is continuously available and visible in the public domain on the website of the JSPCB being www.jspcb.nic.in. Values of particulate matter 10 (PM₁₀) are always within the prescribed limit. I say that the allegations in paragraph under reply are utterly baseless and incorrect. I say that both the units are operating after having obtained appropriate clearances under the Environment Protection Act and the other laws in respect of each of the said units. As such, there can be no question of information of any unit being hidden in the application seeking environment clearances, as alleged or at all. I say that sum total of the entire activity being carried out is appropriately covered by clearances and/or permissions issued by the pollution regulatory authorities. There is, therefore, no question of any hide and seek. It is further denied that the said application made by the applicant is bona fide or that the said application could be permitted to be supplemented. It is further denied that the said application filed by the applicant under section 21 of the Air (Prevention and Control of Pollution) Act, 1981 has any merits and/or the application filed by the applicant supplements genuine and correct information regarding the environmental compliances made by the project proponents for running its units. I say that the said application is liable to be dismissed with high costs. I say that all the averments made by the applicant are based on incorrect and false information and/or the application is devoid of any merits and is made with the sole intention to disrupt the smooth functioning of the project proponents.

whereas, the issues w.r.t. plantation as per norms, installation of Continuous Ambient Air Quality Monitoring Station (CAAQMS), installation of Continuous Emission Monitoring System (CEMS) is concerned, the same has been dealt in detail by the Committee constituted by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in O.A. No. 44/2023/EZ. The report of which



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has been filed before the Hon'ble NGT, EZB, Kolkata by the JSPCB vide affidavit dated 25/07/2023 and the same has been taken on record by the Hon'ble Tribunal on 15/01/2024.

Whereas, the Unit has obtained No Objection Certificate (NOC) for extraction of Groundwater from Central Ground Water Authority vide NOC No. CGWA/NOC/IND/ORIG/2021/10628 which was valid from 02/01/2021 to 01/01/2024 for fresh water 35.00 m³/day (12775 m³/year). After expiry of the same again the renewal was obtained vide NOC No. CGWA/NOC/IND/REN/1/2023/8413 which is valid from 02/01/2024 to 01/01/2027 for fresh water 35.00 m³/day (12775 m³/year)

Whereas, the Environmental Clearance (EC) was issued by the Ministry of Environment and Forest, Government of India Vide F. No. J-11011/384/2010-IA II(I), dated 31.10.2011 for the proposed expansion of Ferro Silicon/Ferro Manganese- 40 TPD and existing capacity of Ferro Alloy- 26 TPD, Ferro Alloy- 30 TPD over an area of 14 Acres.

Whereas, as per the record available with the Jharkhand State Pollution Control Board the following No Objection Certificate (NOC)/Consent to Establish (CTE) were issued: -

- (i) by the Bihar State Pollution Control Board vide ref. no. T-551, dated 24.12.2000 for the production of Silico Manganese Metal- 26 TPD;
- (ii) by the Jharkhand State Pollution Control Board vide memo no. 2577, dated 20.05.2009 for the production of Silico Manganese- 30 MT/Day;
- (iii) by the Jharkhand State Pollution Control Board vide memo no. D-1510 (N), dated 21.05.2014 for the production of Ferro Alloys Silico / Manganese- 40 TPD.

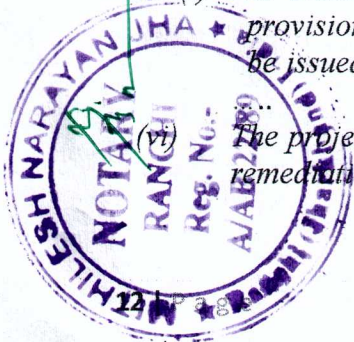
Whereas, as per the record available with the Jharkhand State Pollution Control Board the following Consent to Operate (CTO) were issued: -

- (i) by the Jharkhand State Pollution Control Board vide ref. no. D-3166 (C), dated 09.10.2013 for the production of Silico Manganese -26 TPD valid for the period upto 31.12.2013;
- (ii) by the Jharkhand State Pollution Control Board vide ref. no. B-910, dated 18.03.2014 for the production of Silico Manganese Ferro Alloys- 26 TPD valid for the period upto 31.12.2014;
- (iii) by the Jharkhand State Pollution Control Board vide ref. no. D-1924 (C), dated 07.07.2014 for the production of Ferro Alloys Silico/Manganese- 70 TPD (30+40) valid for the period upto 30.06.2015;
- (iv) by the Jharkhand State Pollution Control Board vide ref. no. B-635, dated 12.03.2015 for the production of Ferro Alloys Silico/Manganese-96 TPD (26+30+40) valid for the period upto 31.12.2015;
- (v) by the Jharkhand State Pollution Control Board vide ref. no. B-42, dated 06.01.2016 for the production of Ferro Allys Silico/Manganese- 96 TPD valid for the period upto 31.12.2020;
- (vi) by the Jharkhand State Pollution Control Board vide ref. no. JSPCB/HO/RNC/CTO-4412165/2020/1819, dated 10.11.2020 for the production of Ferro Alloys Silico/Manganese – 96 TPD valid for the period upto 31.12.2025.

Whereas, the Terms of Reference (ToR) under SOP dated 07.07.2021 (violation case) was issued by the Ministry of Environment, Forest and Climate Change, Government of India vide File No. IA-J-11011/384/2010-IA-II(IND-I), dated 19.12.2022 with following key recommendations: -

14. (i) The State Government/SPCB shall take action against the project proponent under the provisions of the Environment (Protection) Act, 1986 and further no consent to operate to be issued till the project is granted EC.

(vi) The project proponent shall require to submit a bank guarantee equivalent to the amount of remediation plan and natural and community resource augmentation plan with the SPCB



prior to the grant of EC. The quantum shall be recommended by the EAC and finalized by the regulatory authority.

- (ix) Project proponent shall implement penalty provisions i.e. 1 % of project cost attributable to the expansion, incurred up to the date of filing of application along with the EIA/EMP report as contained in the paragraphs 12 of the Standard Operating Procedure dated 07/07/2021 shall be complied with.
- (x) In pursuance to MoEF& CC OM dated 31st October '2019 & 30th December, 2019 issued in compliance of the order of Hon'ble NGT in OA No.- 1038/2018 dated 19th August, 2019, the compliance of all the conditions applicable to SEPI shall be prepared. Greenbelt shall be planned in 40 % of the project area. CER allocation shall be 1.5 times of the normal calculated amount.
- (xi) The project proponent shall obtain name change in Consent (CTE/CTO) for the existing project in the name of M/s Bihar Foundary and Castings Limited."

Whereas, the point No. 4 of the above said ToR is reproduced herein for the sake of brevity which is as follows: -

"4. The instant proposal of M/S Bihar Foundry & Castings Limited located at Plot No.0 1405, Ramgarh Industrial Area, Village Marar, District Ramgarh, Jharkhand is for seeking modification in ToR dated 24.11.2020 for appraisal of proposal under violation category as per the provisions contained in the MoEF&CC Standard Operating Procedures dated 07.07.2021 pertaining to consideration of violation cases as PP has reported that the company has constructed 5th Furnace i.e., New 1 x 9 MVA SAF & CLU converter is under construction without prior environmental clearance. PP is ready to comply all the points of TOR for Violation Project and follow SOP dated 07.07.2021 for handling of Violation cases under EIA notification 2006."

Whereas, credible action against the Unit was taken by the JSPCB and a complaint case was filed by the Board under Section 19 of the Environment (Protection) Act, 1986 before the Hon'ble Chief Judicial Magistrate Court, Ramgarh vide Registration No. 45/2023. The matter is still subjudice and next date of hearing is 20/09/2024.

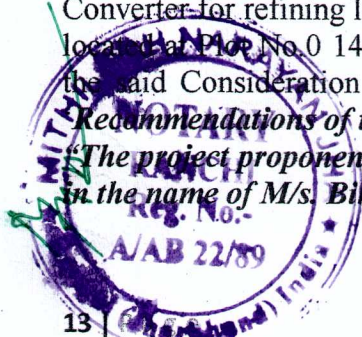
Whereas, the Unit has submitted a Bank Guarantee bearing BG No. 003BG01230890001, dated 30.03.2023 vide Unit's ref. no. BFCL/2022-23/BG/421, dated 31.03.2023 amounting to INR 21,81,500/- (Rupees Twenty One Lakhs Eighty One Thousand Five Hundred only).

Whereas, towards penalty provision as per SOP of MoEF and CC, OM dated 07.07.2021, the Unit has submitted INR 89,29,600/- (Rupees Eighty Nine Lakhs Twenty Nine Thousand Six Hundred only) as per the recommendation of Expert Appraisal committee of the MoEF&CC to the Jharkhand State Pollution Control Board vide its' letter dated 12.09.2023 vide DD no. 023610, dated 12.09.2023.

Whereas, it is again pertinent to mention here that the Impact Assessment Division, Ministry of Environment, Forest and Climate Change (MoEF&CC), Government of India (GoI) vide File No. IA-J-11011/384/2010-IA-II(IND-I) dated 19/12/2022 has issued Consideration for Modification of TOR under SOP dated 07/07/2021 (violation case) for Modification cum Expansion of Ferro Alloy Plant of existing 2x5 MVA SEAF's to 2x6 MVA SEAF, Modification of existing 1x7.5 MVA SEAF to 1x9 MVA SEAF, Existing 1x9.0 MVA SEAF, New 1x9 MVA SEAF & New 12MT per batch CLU Converter for refining liquid HC FeMn to MC/LC FeMn by M/s Bihar Foundry and Casting Limited, located at Plot No.0 1405, Ramgarh Industrial Area, Village Marar, District Ramgarh, Jharkhand. In the said Consideration for Modification of TOR under SOP dated 07/07/2021 under the heading **Recommendations of the Committee' Point 14 (ix)** the following is mentioned: -

"The project proponent shall obtain name change in Consents (CTE/CTO) for the existing project in the name of M/s Bihar Foundary and Castings Limited."

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Whereas, the Board in line with the direction dated 01/03/2024 in I. A. No. 23/2024/EZ in Original Application No. 44/2023/EZ has examined the Auto renewed Consent to Operate (CTO) bearing Ref. No. JSPCB/AUTORENEW/CTO/15367225/1341 dated 23/01/2023 after representation / discussion from both the parties and the details of the said application made for the grant of CTO dated 23/01/2023, which is in question.

Whereas, the details of the abovesaid auto renewed CTO was examined and it was observed that some clarification was raised in the application which was not replied by the unit within prescribed time limit of 30 days, so the application was automatically rejected.

Whereas, it has been observed that there is some discrepancy in the land area mentioned in the different documents / statutory permissions accorded to the Unit by the Competent Authorities and is under examination at Board's level. Also some of the allegations made need to be verified at the Board's level. Final order w.r.t. the same will be passed once the conclusion is drawn after examining the different documents including the land lease issued in favour of the Unit.

Now, therefore, after analysing the representation submitted by the Applicant, reply of the Unit and various other documents as stated above, the undersigned by exercising the powers conferred under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31(A) of the Air (Prevention and Control of Pollution) Act, 1981 issues the following directions to the Unit for compliance within 30 days of issuance of this letter: -

- To apply and obtain name change in Consents (CTE/CTO) for the existing project in the name of M/s. Bihar Foundary and Castings Limited;
- To inform the concerned Authorities after getting the namechange in Consents (CTE/CTO) for the existing project in the name of M/s. Bihar Foundary and Castings Limited;
- Not to operate the violation part of the Plant, till the permission for operating the same is obtained from the Competent Authorities;
- Not to exceed the production capacity as mentioned in the CTO issued vide Board's ref. no. JSPCB/HO/RNC/CTO-4412165/2020/1819, dated 10.11.2020 without obtaining prior CTE/CTO from the Board.

In case of failure to comply the above directions in the said time, closure direction may be issued and legal action may be initiated against the Unit.

Sd/-
(Shashikar Samanta)
Chairman

Memo No. B-2014.....

Ranchi, dated 06/09/2024

Copy to: The Secretary, Jharkhand State Electricity Board, Ranchi / The General Manager, Jharkhand Vidyut Nigam Limited, Ramgarh / The Deputy Commissioner, Ramgarh / The Director of Industry, Government of Jharkhand, Ranchi / The Chief Inspector of Factories, Ranchi / The DFO, Ramgarh for information & necessary action for compliance of the abovesaid order.

Sd/-
(Shashikar Samanta)
Chairman

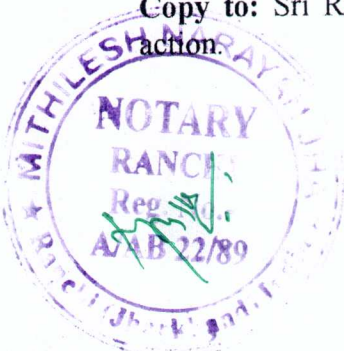
Memo No. B-2014.....

Ranchi, dated 06/09/2024

Copy to: Sri Rakesh Srivastava, Applicant in O.A. No. 44/2023/EZ for information & necessary action.

Sd/-
(Shashikar Samanta)
Chairman

27 JAN 2025



Memo No... B-2014

Ranchi, dated.. 06/09/2024

Copy to: Sri Jitendra Prasad Singh, Regional Officer, JSPCB Regional Office – Cum – Laboratory, Hazaribagh for information & necessary action. It is, also directed to submit the compliance status of the directions given above within 07 days after the timeframe for compliance by the unit is over.

O/C

Samant
06/9/24
(Shashikar Samanta)
Chairman

27 JAN 2024

